

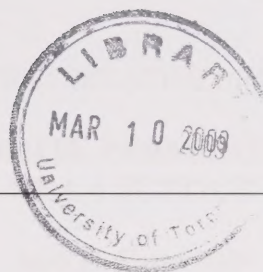


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Thursday 26 February 2009

Journal des débats (Hansard)

Jeudi 26 février 2009

Standing Committee on Justice Policy

Apology Act, 2009

Comité permanent de la justice

Loi de 2009 sur
la présentation d'excuses

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

Président : Lorenzo Berardinetti
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 26 February 2009

Jeudi 26 février 2009

The committee met at 1400 in committee room 1.

The Vice-Chair (Mr. Jeff Leal): We will bring this meeting of the Standing Committee on Justice Policy to order. We have four things to handle this afternoon. First of all, we've got to deal with three subcommittee reports—sorry, Mr. Kormos?

Mr. Peter Kormos: Please don't apologize.

The Vice-Chair (Mr. Jeff Leal): Very good for a Thursday afternoon.

Mr. Peter Kormos: It's simply not necessary.

I listened to the very passionate and articulate declaration by the Minister of Agriculture this morning in response to a question, from my colleague Mr. Miller, about how really it's all about buying Ontario agricultural products. This has rotted my socks for years here; it's not the first time I've raised this on a point of order. I don't know about where you come from, but I'm a little further south from you and we don't grow oranges in Niagara. They don't even grow them down there along Lake Erie. What's the—

The Vice-Chair (Mr. Jeff Leal): Point Pelee.

Mr. Peter Kormos: Point Pelee, Pelee Island. They don't grow oranges there, either. For the life of me, why we can't demonstrate by practice here at the assembly and use everything, including the fruit juices, that is Ontario-based produce just blows my mind and contradicts everything the minister says and everything that we all agree on. This is not a good example. These shouldn't be in committee rooms; they shouldn't be for sale downstairs in the cafeteria. We should be selling produce that's made in Ontario, grown in Ontario.

The Vice-Chair (Mr. Jeff Leal): Mr. Kormos, perhaps not a point of order, but a very interesting comment on the refreshments and beverages we serve here „and the fine clerk sitting beside me here, Susan, will certainly make note of that and we'll see what we can do on that one.

I could share a story about Mr. Whelan when he was agriculture minister, but I won't. I'll tell you sometime.

Mr. Peter Kormos: Did he have his hat on or off?

The Vice-Chair (Mr. Jeff Leal): Had it off.

SUBCOMMITTEE REPORTS

The Vice-Chair (Mr. Jeff Leal): Now we've got to handle the business of committee. Ms. Broten will deal

with the first subcommittee report, dated November 5, 2008. Ms. Broten, please.

Ms. Laurel C. Broten: This is a summary of the decisions made at the subcommittee on committee business.

Your subcommittee on committee business met on Wednesday, November 5, 2008, to consider the method of proceeding on Bill 108, An Act respecting apologies, and recommends the following:

(1) That the committee clerk, with the authority of the Chair, post information regarding the committee's business one day in the following publications: the National Post, the Globe and Mail, the Toronto Star, the Toronto Sun, L'Express, the Lawyers Weekly, and Ontario Reports.

(2) The committee clerk will also post information regarding the committee's business on the Ontario parliamentary channel and on the committee's website.

(3) That interested people who wish to be considered to make an oral presentation on Bill 108 should contact the committee clerk by 12 noon on Monday, December 8, 2008.

(4) That on Monday, December 8, 2008, the committee clerk provide the subcommittee members with an electronic list of all requests to appear.

(5) That after the list of requests to appear has been distributed to the subcommittee, the subcommittee meet to determine all aspects of the public hearings (presenters, dates, locations, times, duration of presentations etc.) and of the clause-by-clause consideration.

(6) That legislative research prepare background material and arguments for and against the legislation, as described in academic journals, and a survey on apology statutes in other jurisdictions.

(7) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Vice-Chair (Mr. Jeff Leal): Thank you Ms. Broten. Comments or questions? All in favour? Carried.

Ms. Broten, please, the December 9, 2008, subcommittee report.

Ms. Laurel C. Broten: Thank you. This is a summary of decisions made at the subcommittee on committee business.

Your subcommittee on committee business met on Tuesday, December 9, 2008, to consider further the

method of proceeding on Bill 108, An Act respecting apologies, and recommends the following:

(1) That the committee clerk post a notice regarding the deadline for written submissions on the Ontario parliamentary channel and on the committee's website.

(2) That the committee clerk contact the 11 groups and individuals who have requested to appear and ask them to submit written comments.

(3) That the deadline for written submissions be 5 p.m. Tuesday, February 17, 2009.

(4) That written submissions be distributed to committee members electronically and upon receipt.

(5) That legislative research prepare a summary of all written submissions received.

(6) That, after the deadline for written submissions has passed, the subcommittee meet to determine a date/dates for clause-by-clause consideration of the bill.

(7) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Vice-Chair (Mr. Jeff Leal): Thank you, Ms. Broten. Comments or questions? All in favour? Carried.

Ms. Broten, the one dated February 23, 2009.

Ms. Laurel C. Broten: This is a summary of decisions made at the subcommittee on committee business.

Your subcommittee on committee business met on Monday, February 23, 2009, to consider further the method of proceeding on Bill 108, An Act respecting apologies, and recommends the following:

(1) That the committee hold one day of clause-by-clause consideration during its regular meeting time on the afternoon of Thursday, February 26, 2009.

(2) That the deadline, for administrative purposes, for filing amendments be 12 noon, Wednesday, February 25, 2009.

(3) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Vice-Chair (Mr. Jeff Leal): Thanks very much. Comments or questions? All in favour? Carried.

APOLOGY ACT, 2009

LOI DE 2009 SUR LA PRÉSENTATION D'EXCUSES

Consideration of Bill 108, An Act respecting apologies / Projet de loi 108, Loi concernant la présentation d'excuses.

The Vice-Chair (Mr. Jeff Leal): We'll now go to clause-by-clause consideration of the bill. Are there any comments, questions or amendments to any section of the bill and, if so, to which section? We'll start with section 1. There are no amendments proposed for section 1. Shall section 1 carry?

Mr. Kormos, please. Debate?

Mr. Peter Kormos: Thank you, yes. This isn't going to last a whole lot of time this afternoon. The bill's not lengthy. This and obviously section 2 are the two key parts of the bill and the ones around which, if there was to be controversy, that controversy would be focused.

I want to thank Mr. Charlton for compiling the material that he did. I'm pretty familiar with the literature on apology legislation and on the sociological stuff, *Mea Culpa* among others, that has been written about it.

I don't dispute, on behalf of New Democrats, the meaningfulness of an apology, the extent to which it can remedy those damages that can't be compensated monetarily. Anybody who has been in a relationship, married or not, knows full well that an apology not only just may save a relationship but at times can be critical to saving a relationship, and some people learn that the hard way. Indeed, the literature talks about what constitutes the most meaningful apology. I've talked at times about the five key elements of an apology; I'm not going to repeat them here.

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You've heard me say, on behalf of New Democrats, that we agree that the simple apology should not be admissible as evidence of liability. I'm going to explain it one more time. I can go to any one of you and apologize for the death of a family member: "I'm sorry." That doesn't mean I'm in any way, shape or form responsible for it.

As a doctor, I can go to a patient and say, "I'm just truly sorry that you have this post-operative infection." That doesn't in any way, shape or form constitute probative evidence of liability. In fact, to allow it to be introduced—what is it that those lawyers say? The prejudicial value may overcome the probative value. Not so much a judge—some judges, maybe—but a jury, for instance, might read something into it that isn't there. You can be very sorry about somebody's misfortune, injury or loss, monetary or otherwise, without being liable or responsible for it.

So I have no quarrel with the common sense, because what this is—although it isn't an amendment to the Evidence Act, it could well be—is the exclusion of evidence. I'd suggest that most judges would exclude "I'm sorry" in any event, either in their own minds in determining liability or in terms of giving that evidence to the jury.

What I find incredibly difficult about this whole premise is that it also excludes from evidence an admission of liability, as long as you say, "I'm sorry." So, to me, there's a big difference between walking up to a pedestrian whose legs have been broken at a crosswalk after I've mowed them down, walking up to them and saying, "I'm sorry this happened"—there could be any number of reasons why it happened, none of which would be liability on my part. He or she might have been walking against the red light. I could still be very sorry. I would be. If I ever hit a pedestrian, I'd be very sorry. Whether it was their fault or mine, I'd still be very sorry. There's a

difference between that and saying that to, let's say, a person who was walking against a red light, and staggering out of my car and saying, "I'm sorry that I mowed you down because I'm drunk as a skunk and I went through the red light." It just doesn't make sense to exclude that admission of liability as evidence of liability. As you folks know, in the United States there's a potpourri of apology legislation; you've read the material. A good chunk of it only excludes the bare "I'm sorry," and I say for good reason.

Now, the other part of "I'm sorry" and "I admit liability" is that, and if you read the submissions—I'm sure everybody did—after the RNAO, page 6, it's noted in that submission that an apology during the course of settlement, even an admission of liability during the course of settlement, is privileged information. It cannot be used in court. If it's in the course of a mediation, whether it's the court-ordered mediations here in Toronto or whether it's parties who choose to go before a mediator—mediations and settlement discussions are all about parties being entitled to be very frank and candid, including being able to say, not just "I'm sorry," but "We know we did it." Then you proceed from there. That cannot be entered as evidence. That's privileged communication. The law is very clear on that.

That's why, I've got to tell you, Dr. Barbara Landau gave me a call. She's been here working, and I'm familiar with her work and the literature she's published and the work that she does here in Toronto as a mediator, amongst other things. I talked to her and Heather Swartz, the head of the Ontario ADR association. They were very concerned that the bill wasn't going to pass. I said, "Don't worry; the bill is going to pass. I won't be voting for it, but the bill will pass," because they understand the effectiveness of an apology and admissions of liability in the course of mediation, but they also understood that mediation is privileged, that it isn't admissible in any event; that is, with the mediator, whether it's two lawyers exchanging letter, whether it's two lawyers sitting in a pre-trial conference with the judge, the whole nine yards.

I personally am very troubled that we would deny a plaintiff the most obvious evidence, and that is an admission of liability: I was drunk and I shouldn't have been driving that fast. The observation by the RNAO—and I like nurses; I respect their association. On page 4, they make reference to writings by Russell Getz, who's defending the uniform apology act: "Russell Getz cautions against overstating the role of an apology in proving liability. He writes that requiring plaintiffs to prove their case on the facts is not an undue hardship and an apology, or its absence, is rarely determinative." Well, I agree. You see, the RNAO has a motive for supporting this legislation, and I'll get to that in just a second.

An apology is rarely determinative—I agree. An admission of liability is very determinative. The suggestion that somehow plaintiffs don't have any trouble proving their cases is a pretty strong leap. I'm talking about, I suppose, as often as not, plaintiffs in motor vehicle accident cases—innocent victims. A pedestrian all alone,

a bicyclist all alone, when there aren't people standing by, is often left with their version versus the other party's version. Judges and/or juries are put in very difficult positions. The test is but balance of probabilities and that means there's a whole space in the middle that's vacant and the teeter-totter can shift heavily this way or heavily that way, yet an admission of liability, it seems to me, would be a very effective form of evidence. Not the apology—that should be excluded—but an admission of liability. And trust me, plaintiffs do have hard times proving their cases to the point where they often simply give up and settle for far less than what the damages actually are.

I'm also worried about the phenomenon of cynical apologies, contrived apologies. Ms. Elliott spoke about this when she spoke about this bill on second reading. It's become part of the norm of mediation practice and teachings. Fisher and Ury, what's it called? Getting to Yes. And that principle of negotiation—principle, my foot. Because while they talk about interests, they also talk about using every tactic available to you, including an apology. They talk about an apology as a tactic, and it is. In a settlement process, a defence lawyer, if he or she thinks that an apology to the victim may soften them up—because look at the position victims are in. And I'm not talking about two weeks' worth of whiplash, I'm talking about something lifelong, because that's what you sue for nowadays, right? It's got to be a catastrophic injury. So they've been in pain, their life has been destroyed, they've been waiting months and months, maybe years, and they've been living on a pittance on the no-fault portion of insurance, if that hasn't been cut off as a means of pressuring them to settle. They're in that mediation room and they're ready to give up in any event. Emotionally, these people are just wrecks, and you get somebody affecting: "I'm so sorry. I identify. I empathize. We're just so sorry." At that point, the emotional impact of that can be very potent if the apology is but a tactic.

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Finally, people talk about apologizing but not wanting to be liable for their conduct. Horse feathers. What kind of culture are we creating? I want to create a culture or live in a culture where people are accountable for their misbehaviour. I don't want to protect wrongdoers from being responsible. For Pete's sake, that's the wrong direction. If you cause somebody injury, you should be apologizing. You should be fessing up and you should be paying.

The motivators behind this are the insurance industry. That's who motivated it in the United States, especially the health—you see the submission from the insurer for physicians, doctors and the Ontario Hospital Association. This is all because they make reference to the fact that where we have apology acts, we have lower settlements. This is not the United States. We don't have multi-million-dollar settlements or awards in Canada. We've got the Supreme Court of Canada trilogy of cases. Ms.

Broten knows about that. We have remarkably strong caps on pain and suffering—again, sadly strong caps.

I'm sorry, my friends. I understand the phenomenon of apologies. I understand the emotional and psychological impact. I understand their value, but I don't think any of that supports this legislation. The mediation community says, "We need this legislation." I said, "You know darned well you don't." There's been litigation about the privilege of mediation sessions and the compellability of a mediator. Courts have been pretty clear. I can't say very clear. Courts are never very clear, but pretty clear that a mediator is not compellable as a witness. And then I'm going to have a little more to say because there's an interesting amendment coming from, of all people, the Advocate's Society.

These are my concerns. I suspect the bill is going to pass. I know the OBA supports it, the mediators support it, the insurance companies and the medical profession support it because of course they're scared to death of liability and settlement and the costs associated with it. I, quite frankly, am amazed that the plaintiffs' bar—because it was well advertised—was not more responsive. We have nothing from the plaintiffs' bar, and I say God bless. They've been given fair warning, because I know for sure, dollars to doughnuts, I'm going to get a phone call, or one of you are, saying, "What the heck is going on? I've been preparing my case based on the admission of liability by the defendant."

I'm going to be voting against this section.

The Vice-Chair (Mr. Jeff Leal): Further debate on section 1? Ms. Broten, please.

Ms. Laurel C. Broten: I'll just speak very briefly. I certainly hear Mr. Kormos's perspective and I'll just take a brief moment to reiterate that I think the rest of us around the table come at it from a different perspective. We know and have observed and have been apprised of situations where people and organizations are reluctant to apologize after an accident or incident of wrongdoing out of a fear that that apology would be used as evidence of liability in a civil court proceeding. In so many instances, the ability to offer a sincere apology without legal consequences can and has been an impetus for the resolution of disputes inside/outside of court and lengthy, costly lawsuits.

Having been apprised of the work that was done in the development of this legislation with some very respected members of the plaintiffs' bar and having heard from those individuals that they too shared this perspective—among others, Jamie Trimble, who is the president of the Ontario Bar Association. His statement is: "An apology should not be something that can be used in a lawsuit later on to establish the liability of another party, nor should it be able to be used by one party to prevent the ability of another to seek justice."

As Mr. Kormos said, there is a long-standing history with respect to the exclusion of exchanges that transpire in the context of settlement or mediation and the steps that we are taking here will not in any way affect that, but we are moving forward with confidence that we will

assist some cases in seeking resolution. The history of the evidence that we are seeing emerging in the US is that there is some strong empirical evidence that apologies can reduce litigation and promote early resolution of disputes. That's the goal that we have in mind today.

The Vice-Chair (Mr. Jeff Leal): Thanks very much, Ms. Broten. Mr. Kormos, please?

Mr. Peter Kormos: Again, the reference is to apologies, not apologies and admissions of liability. I find that interesting.

Having said that, I find it passing strange—Ms. Broten doesn't call the shots here—that the government of Ontario, using the deep pockets of the provincial treasury, is litigating, and undoubtedly spending a whole lot of money, and forcing the plaintiffs to spend a whole lot of money, in the SARS case, forcing them into appeals and utterly prepared to go all out.

I'm an advocate of settlement. I believe that alternative dispute resolution is oftentimes preferable to the court process, but I don't believe in settlement at any cost. Also, I believe that settlements can have a peculiar view of mediation; I think that mediation should ensure that settlements are just settlements and not desperation settlements. But it's interesting that the government of Ontario, sponsor of this legislation, right now is forcing victims of SARS to spend a fortune in legal fees, and spending a fortune in legal fees themselves, when in fact they should be sitting down with those same plaintiffs and negotiating a settlement. And if it takes saying "I'm sorry" to get them receptive to the prospect of settlement, then for Pete's sake, say "I'm sorry." Perhaps they're waiting for this legislation.

The Vice-Chair (Mr. Jeff Leal): Thank you very much.

Mr. Peter Kormos: Recorded vote, please.

The Vice-Chair (Mr. Jeff Leal): Any further discussion? A recorded vote has been requested. All in favour of section 1?

Ayes

Broten, Brownell, Elliott, Naqvi, Rinaldi, Sousa.

Nays

Kormos.

The Vice-Chair (Mr. Jeff Leal): Section 1 carries.

Section 2: Mrs. Elliott, please; you have an amendment?

Mrs. Christine Elliott: I move that subsection 2(3) of the bill be struck out and the following substituted:

"Evidence of apology not admissible

"(3) Despite any other act or law, evidence of an apology made by or on behalf of a person in connection with any matter is not admissible in any civil proceeding, administrative proceeding or arbitration as evidence of the fault or liability of any person in connection with that matter, unless the apology is made after a proceeding or

arbitration with respect to that matter has been commenced by the issuance of a claim, notice of hearing, notice of arbitration or similar document.”

Mr. Chair, if I may say, this is in response to a recommendation that was made by the Advocate’s Society. It’s a slight variation on the amendment that was proposed by them. I am supporting this because of the concern that I have had throughout this process between the use of this and its ability to effect settlements, if sincerely made, versus it being used as just a tool for settlements

I understand and appreciate the comments that Mr. Kormos has made and I certainly have struggled with them myself, but in my view what this proposed amendment does is to distinguish between apologies made before a proceeding is brought and apologies made afterwards. Certainly, if an apology is made in advance and is a sincere attempt to settle the issue and to really be truly sincere in that respect, that’s fine; it won’t be used. Once an action has been commenced, clearly there is an indication that the person intends to proceed with it and therefore there’s no reason why an apology should not be admitted as evidence of liability in that situation. That’s why I’m proposing this, and I think it is a way of dealing with weeding out insincere apologies.

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The Vice-Chair (Mr. Jean-Marc Lalonde): Thank you, Ms. Elliott. Further discussion? Ms. Broten, please.

Ms. Laurel C. Broten: Thank you very much, Chair. The government will not be supporting this amendment. Those who follow litigation proceedings know that there can be months or years that transpire between the issuance of a claim or a notice of hearing and the ultimate resolution. We don’t want to reduce the opportunity for the advancement of meaningful apologies and resolutions of the matter sometime during that proceeding. There may be instances where, as the result of statutes of limitations, proceedings are commenced quickly in order to preserve the rights, and parties can continue to enter into discussions.

In the next few moments I will be putting forward a government resolution with respect to section 2 which will speak somewhat to these same issues.

The Vice-Chair (Mr. Jeff Leal): Mr. Kormos, please.

Mr. Peter Kormos: It’s a most interesting amendment. I’ll tell you why I think so. The apology of course is not just an apology. An apology includes an admission of liability, in a way. We’ve created this artificial apology by virtue of section 1. An apology isn’t just, “I’m sorry.” The apology is, “I shot your dog, and I smothered your grandmother, and I’m sorry.”

The Vice-Chair (Mr. Jeff Leal): Gosh.

Mr. Peter Kormos: That’s an apology, by definition, because it’s an apology with an admission of liability. What the Advocate’s Society has done is realize that with this legislation there’s the risk that in the course of examinations for discovery, a person could, under oath, say, “I shot your dog and I smothered your grandmother, but I’m sorry,” and that sworn evidence would not be admissible as an admission of liability. Ms. Elliott can correct me if

I’m wrong in terms of understanding what the Advocate’s Society is getting at.

And I’m not talking about the Advocate’s Society; I’m talking about what they’re addressing: What a ludicrous proposition, that a defendant could admit to the misconduct under oath and, as long as “I’m sorry” is attached to it, it’s not admissible. Wow. That, to me, is a doubly repugnant proposition.

Ms. Broten has two babies; she’s busy. But I’m surprised that she didn’t comment on the fact that an admission of liability made in the heat of the moment could sometimes be an inaccurate admission of liability. Did I put that fairly? Could I advance that argument on your behalf?

Ms. Laurel C. Broten: Certainly you may.

Mr. Peter Kormos: That’s right. I acknowledge that, but of course that still doesn’t counter my argument, because a person is always entitled to rebut that and say, “No, I was so harried, and I felt so bad about the person that I thought it must have been my fault, until I found out that in fact they were crossing against the red light as a pedestrian.” But here a person could, under oath, in an examination for discovery, admit to the wrongdoing, admit to being drunk as a skunk, admit to loading the shells into the rifle, and the Advocate’s Society is concerned that as long as he or she, under oath, says, “But by the way, I’m sorry,” that evidence is inadmissible. Isn’t that an absurdity, Chair? What do you think?

The Vice-Chair (Mr. Jeff Leal): I’m listening intently to your remarks, Mr. Kormos.

Mr. Peter Kormos: It strikes me as an absolute absurdity. I indeed support this amendment. It doesn’t undo the damage, but it avoids some of those just bizarre scenarios that leave people walking away from a courthouse, after paying tens or hundreds of thousands of dollars in legal fees, shaking their heads, saying, “Justice doesn’t exist in this province.”

The Vice-Chair (Mr. Jeff Leal): Any further discussion on this amendment? Do you want a recorded vote?

Mrs. Christine Elliott: Yes, please

Ayes

Elliott, Kormos.

Nays

Broten, Brownell, Naqvi, Rinaldi, Sousa.

The Vice-Chair (Mr. Jeff Leal): The amendment is defeated.

Ms. Broten, you have one.

Ms. Laurel C. Broten: I move that section 2 of the bill be amended by adding the following subsection:

Exception:

(4) However, if a person makes an apology while testifying at a civil proceeding, including while testifying at an out-of-court examination in the context of the civil

proceeding, at an administrative proceeding or at an arbitration, this section does not apply to the apology for the purposes of that proceeding or arbitration.

The government advances this amendment as a clarification. We do not think that the court would have excluded that evidence in the context of the litigation proceeding itself, but in response to the submissions being advanced by the Advocate's Society, and as a mechanism to ensure that in circumstances where a formal process of evidence collection is under way, that that evidence can be brought forward.

The Vice-Chair (Mr. Jeff Leal): Thank you. Further discussion? Mr. Kormos, please.

Mr. Peter Kormos: I'm troubled by the failure to utilize the amendment proposed by the Advocate's Society. The Advocate's Society are senior litigation lawyers in the province, both the plaintiff and the defence bar, aren't they Ms. Elliott? So these are people who know their stuff. They're the best-paid lawyers in town, I bet you. Some of them have been on the government's own \$800-an-hour payroll from time to time.

I just would ask Ms. Broten why the government prefers its version, which purports to address the same thing, and not the Advocate's Society's, which seems to have the capacity to be a little broader.

Ms. Laurel C. Broten: The Advocate's Society amendment, in line with that being advanced by Ms. Elliott, where the application of the act to apologies would not be allowed where legal claims has commenced: Is that the amendment you're referring to—the back one?

Mr. Peter Kormos: Yes.

Ms. Laurel C. Broten: It's our view that this could possibly limit the benefit of the act's incentive to apologize and create a circumstance whereby wrongdoers would consult with their counsel before apologizing, a circumstance where there can certainly be, as indicated earlier, a long time between the start of a proceeding and a trial, a period where apologies may be helpful outside of formal settlement discussions.

At the same time, if during the context of an examination for discovery or other a witness brings forward that evidence, that evidence is appropriately within the context of the proceedings, and certainly not in keeping with the intension of true, honest, genuine apologies, which come from a human interaction—for example, between Ms. Elliott and myself, where I would apologize to her.

It's not a very sensitive form of apology when you're being cross-examined under oath. So we're giving a clear distinction between those two human interactions: one being very human, being one that could help the healing process, and the other which is clearly a discussion within the context of litigation.

The Vice-Chair (Mr. Jeff Leal): Mr. Kormos, please.

Mr. Peter Kormos: It's interesting, because it raises the spectre of there being press regulations. Is there regulation-making power in this bill? There being regulations—well, there could always be amendments, or

perhaps a chart, saying, "If the apology is accompanied by tears, it ranks as a one-star apology; if it's accompanied by copious, you know, gasping, hysterical crying, then it's a three-star; if the person offers to sever their own left arm, like an eye for an eye and a tooth for a tooth, then it's a five-star apology."

Ms. Broten, I enjoy you, but you were talking about the sincerity of an apology. Are we going to start judging this? We want face-to-face apologies? Look, with that argument, what about a person in examination for discovery, because I trust that the out-of-court examination is specifically designed to talk about discovery. What if the person just collapses?

You're too young to remember Perry Mason—Raymond Burr was a Canadian actor. He always got the accused. It was only a 30-minute show, too. This isn't Law and Order, where it's an hour, and oftentimes they lose, as you know, on Law and Order. But Perry Mason, within 30 minutes—Hamilton Burger would be the other lawyer.

The Vice-Chair (Mr. Jeff Leal): He always lost, Hamilton.

Mr. Peter Kormos: Perry Mason would get the witness, the accused, the defendant, to break down and say, "I confess," in a mere 30 minutes. In a mere 30 minutes, Perry Mason would get the person to confess and break down.

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To be fair, what if, in an examination for discovery—and I'm arguing your case now—you had a defendant, a car driver, who says, contrary to the advice of the insurance company lawyer, "I just can't take this anymore. I can't take the lies." I'm channelling one of those Perry Mason cross-examinations. "I can't take the lies. I'm just so sorry I've been wracked with guilt. I did it. Can't we settle this?" You're saying on the first hand, about your amendment, about the Advocate's Society proposition, that people should be able to say that, and you're saying you want it to be sincere. How could it be more sincere than if it was under oath? And that's an apology, an admission of guilt long after the incident. You're no longer rattled—you've been in a car accident, I suspect. You're rattled. It's such a weird phenomenon; you're rattled. They're no longer rattled, they just can't take the insurance companies' lying anymore, because insurance companies, of course, lie their butts off to protect their interests. They just can't take it anymore; they don't care what the insurance company lawyer told them. They're going to say, "No. I'm wracked with guilt. I'm sorry. I just want to settle this."

You still want to use that, notwithstanding your support for Bill 108, as an admission of liability that's admissible in court. What more sincere apology and admission of liability could there be in a person under oath, especially if they cried a lot? The whole thing: the Kleenex, the mucus, the tears, the gasping, the sniffing. You don't want your bill to apply to that? I guess not.

I'm going to support this amendment, because I think it helps to remedy some of the dangers proposed by the—

The Vice-Chair (Mr. Jeff Leal): Any further discussion? All in favour of the amendment? It is carried.

Shall section 2, as amended, carry?

Mr. Peter Kormos: Recorded vote, please.

The Vice-Chair (Mr. Jeff Leal): All in favour of section 2, as amended?

Ayes

Broten, Brownell, Elliott, Naqvi, Rinaldi, Sousa.

Nays

Kormos.

The Vice-Chair (Mr. Jeff Leal): Section 2 carries.

There are no amendments to section 3. Shall section 3 carry?

Mr. Peter Kormos: One moment.

The Vice-Chair (Mr. Jeff Leal): Mr. Kormos, please?

Mr. Peter Kormos: This is the crux of the issue. This is the exclusionary rule. This is the ultimate harm, here. This is what says it's not admissible. Good, probative evidence is not admissible, evidence that a person has the opportunity to refute or recant under oath. Good, probative evidence is not admissible. If I can't support this, I can't support the other sections, can I?

Recorded vote.

The Vice-Chair (Mr. Jeff Leal): Any further discussion on section 3? A recorded vote has been requested.

Ayes

Broten, Brownell, Naqvi, Rinaldi, Sousa.

Nays

Kormos.

The Vice-Chair (Mr. Jeff Leal): Section 3 carries.

Ms. Broten, you have a new section, section 3.1.

Ms. Laurel C. Broten: Yes.

I move that the bill be amended by adding the following section:

"Acknowledgement, Limitations Act, 2002

"3.1 For the purposes of section 13 of the Limitations Act, 2002, nothing in this act,

"(a) affects whether an apology constitutes an acknowledgment of liability; or

"(b) prevents an apology from being admitted in evidence."

The Vice-Chair (Mr. Jeff Leal): Discussion? Ms. Broten, please.

Ms. Laurel C. Broten: This arises out of advice from the OBA and speaks directly to the circumstance whereby a debt may be acknowledged. Section 13 of the Limitations Act reads: "If a person acknowledges liabil-

ity in respect of a claim for payment of a liquidated sum, the recovery of personal property, the enforcement of a charge on personal property or relief from enforcement of a charge on personal property, the act or omission on which the claim is based shall be deemed to have taken place on the day on which the acknowledgment was made."

If the acknowledgment is advanced in combination with an apology, this section continues to have that acknowledgment apply in the context of not having a conclusion to the limitation period.

The Vice-Chair (Mr. Jeff Leal): Discussion? Mr. Kormos.

Mr. Peter Kormos: What we're saying is that this prevents—or triggers an extension of the limitation period; is that right?

Ms. Laurel C. Broten: Yes; will continue to trigger the extension.

Mr. Peter Kormos: Talk about wanting to have it every which way. They want admissions of liability to—and I think the example used was, "I'm sorry; I owe you the money," in the submission that was put to you. "I'm very sorry I haven't paid you, but I'll pay in two months," triggering the commencement of the limitation period. Is that correct?

Ms. Laurel C. Broten: Triggering the continuation of the limitation period, yes.

Mr. Peter Kormos: The expansion?

Ms. Laurel C. Broten: Expansion. Certainly, in keeping with, I would suspect, all of our views, that if an individual advances recognition or acknowledgement of a debt owed, the current Limitations Act allows that the limitation commences as of that day and recontinues, and if that's combined with an apology, we should expect it to be no different.

Mr. Peter Kormos: Wait a minute. Help us with section 13—this applies only to a debt, not to a personal injury. That's not fair, is it?

Ms. Laurel C. Broten: Certainly, on the advice of the OBA, we felt that this is a responsible approach to the mechanism of limitations periods surrounding the repayment and claims for personal debt.

Mr. Peter Kormos: Chair?

The Vice-Chair (Mr. Jeff Leal): Mr. Kormos, please?

Mr. Peter Kormos: This is Alice in Wonderland. The Mad Hatter is romping through this room. The government wants to protect the interests of a creditor when it comes to liability, but not the interests of a person who's been maimed, an innocent victim, about whom there are still limitation periods. There was just an act passed a few years ago where there was an attempt to universalize the time frame.

I'm going to vote against this, just on principle. It's consistent with what I believe, that admissions of liability should be admissions of liability, whether you say you're sorry or not. It's absurd that the government would allow this to be applied to Household Finance Corp., if there is such a company anymore, or whatever those people are

who charge outrageous 28% interest rates. It would allow them to benefit from an apology with an admission of liability, but it wouldn't allow a person who was maimed. This is nuts. This is the world upside down.

The Vice-Chair (Mr. Jeff Leal): Mrs. Elliott, please?

Mrs. Christine Elliott: I agree with Mr. Kormos. I can't understand why there would be a distinction drawn for the two types of situations. It makes no sense to me either.

The Vice-Chair (Mr. Jeff Leal): Ms. Broten?

Ms. Laurel C. Broten: I would conclude simply by saying that it would—certainly in the government's perspective, we do not want to see the establishment of a rule whereby someone in the context of acknowledging a debt and simply apologizing for not paying can result in the extinction of rights that have been established in the context of the Limitations Act and longstanding principles with respect to that debt recovery.

The Vice-Chair (Mr. Jeff Leal): Mr. Kormos, please?

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Mr. Peter Kormos: What about acknowledging a personal injury? Look—and I'm being deadly serious—what about a rapist, against whom a victim would surely have a civil claim, although it's not advanced as often as it should be, where the limitation period is running right up against the wire, and the rapist, for whatever reason wants to apologize and admit liability? On principle, I'm voting against it. This is outrageous stuff. I appreciate Ms. Broten's best efforts to explain it; I really do. It's not easy.

Recorded vote, please, sir.

The Vice-Chair (Mr. Jeff Leal): Okay. Shall section 3.1 carry?

Ayes

Broten, Brownell, Elliott, Naqvi, Rinaldi, Sousa.

Nays

Elliott, Kormos.

The Vice-Chair (Mr. Jeff Leal): It carries.

Section 4, the commencement of the bill: Shall it carry? All in favour? Carried.

Shall section 5, the short title of the bill, carry?

Mr. Peter Kormos: Mr. Chair?

The Vice-Chair (Mr. Jeff Leal): Mr. Kormos, please.

Mr. Peter Kormos: I'm going to have to vote against this. It isn't an apology act. It's an exemption of admissions of liability act. I'm going to be voting against this, and asking for a recorded vote.

The Vice-Chair (Mr. Jeff Leal): Mrs. Elliott, do you have any comments?

Shall the short title of the bill carry?

Ayes

Broten, Brownell, Elliott, Naqvi, Rinaldi, Sousa.

Nays

Kormos.

The Vice-Chair (Mr. Jeff Leal): The short title of the bill carries.

That concludes our deliberations this afternoon.

Interjections.

The Vice-Chair (Mr. Jeff Leal): Just one second. Sorry.

Ms. Laurel C. Broten: A few more steps.

The Vice-Chair (Mr. Jeff Leal): Oh, very good.

Shall the title of the bill carry? Carried.

Shall Bill 108, as amended, carry?

Mr. Peter Kormos: Recorded vote, please.

The Vice-Chair (Mr. Jeff Leal): Okay.

Shall Bill 108, as amended, carry?

Ayes

Broten, Brownell, Elliott, Naqvi, Rinaldi, Sousa.

Nays

Kormos.

The Vice-Chair (Mr. Jeff Leal): It carries.

Shall I report the bill, as amended, to the House?

Mr. Peter Kormos: Debate, please.

The Vice-Chair (Mr. Jeff Leal): Sure. Go ahead, Mr. Kormos.

Mr. Peter Kormos: This is one the shortest committee processes I've ever been involved in. Look, I want to thank research for putting this stuff together. I want to thank Dr. Landau and Heather Swartz, who took the time to call me directly about this.

This is the sort of stuff in the States that's been driven by the insurance industry. Somehow, in Canada we've picked up on it. I for the life of me don't know how people got drawn into this. It's almost like this vortex, this support for this proposition. It all sounds so nice; it all sounds so warm and fuzzy: "Ooh, let's apologize." Why not flowers and chocolates in addition to an apology; or "I'll give a little bit of jewellery at the same time"?

We're talking here about dealing with some of the most ruthless institutions in our society: the insurance industry. These guys are not nice people. They're ruthless. These guys don't give a tinker's damn about injured victims. Their concern is about the bottom line. I remember that old television commercial, "You're in good hands with Allstate"—yeah, until they squeeze.

Why this government would accommodate that industry beats me. If it were really just about mediation, then the government would codify some of the rulings

that have been made and ensure that any communication by statute, not just relying upon the common law, would make it clear that any communications made in the court, including admissions of liability made in the course of a mediation process, whether it's a court-ordered mediation or otherwise, or any settlement process, are privileged and inadmissible. If that was really the motive here, I could live with it. It would be codifying the common law, and there's nothing, I suppose, wrong with that, except if you're a fan of common law and you understand that it's a growing thing, you may be treading where you shouldn't. You should just let the common law adjust and adapt.

But this is about the insurance industry. It's about the Ontario Hospital Association wanting to cover their butts. Yes, you bet your boots that in jurisdictions there are lower settlements. What's good about lower settlements? I don't know why people insist that that's a good thing, because what it usually means is that an injured party—and again we're not talking about a sprained finger or a slip and fall, we're talking about catastrophic cases; we're talking about paraplegics and quadriplegics, and worse. We're talking about in the context of litigation, not in the context of marital disputes that are being mediated, perhaps, marital conflicts or neighbour conflicts; we're talking about in the course of litigation where people are seeking money as a remedy. That's all we've got to offer in our society. The apology doesn't fix the wound.

Eddie Greenspan in his column in the Toronto Sun—I was mad at him the week before because he trashed unions, and then he redeemed himself, in my eyes, because he wrote a column about the apology. He said, "Don't apologize; just give me the money." Here we are talking about apologies but we're not talking about responsibility.

We should be passing legislation tuning up the insurance companies. You know what they do. They drag cases out. First they deny the claim, and then a certain percentage of people just drift away. They deny the claim, and then at some point they stop no-fault payments. Then more people drift away. They deny the claim, and then people have to retain lawyers, and good lawyers are busy enough, so people exhaust all of their resources on lawyers and then they drift away. Then they get them into the mediation process down at FSCO, and they use the mediation process as a free kick at the can when it comes to discovery, or to bully the plaintiff, or to somehow lowball the plaintiff so that the plaintiff begins to doubt the value of their own claim.

Ms. Broten is right: These cases can stretch on for years; that's an entirely different problem. We should be spending time addressing that rather than this legislation. Then they get the plaintiff to take whatever they can, because by then the lawyer hasn't been paid for two years. The utility of a courtroom becomes far less effective because these are all perilous things. That's why we encourage people to settle, because a settlement that's negotiated is easily a far more effective thing than

depending upon the judge to make a ruling, because you've got to tell your client, "Look, I think we've got a good case, but anything can happen in that courtroom." You can get Judge Gans. What would happen then? Did you read about him this morning? Read the latest report. What a beaut, huh, Ms. Broten? Boy. The federal judicial council found that to be acceptable behaviour—incredible. But you could get Judge Gans, and I suppose if you're not white, the tables might be turned on you right off the bat.

Interjection.

Mr. Peter Kormos: Exactly. Read the report.

So here we are with a bill that at the end of the day is at the behest and request of the insurance industry, a greedy, inhuman, inhumane, selfish, voracious, a literal parasite on society—the insurance industry. And this government's backing them. You know I can't support the bill.

The Vice-Chair (Mr. Jeff Leal): You want a recorded vote of this?

Mr. Peter Kormos: I leave it at that. Yes, sir, please.

Ms. Laurel C. Broten: Chair?

The Vice-Chair (Mr. Jeff Leal): Ms. Broten, please.

Ms. Laurel C. Broten: Yes, I'll just conclude very briefly by responding to Mr. Kormos. Catastrophic injuries are currently litigated and will continue to be litigated, but there are circumstances whereby an apology, in combination with a damage payment or claim, may be helpful in the healing of individuals. I know that you, as counsel, and myself as plaintiff's counsel in many instances, do know that it is helpful for victims to heal when the harm done to them is acknowledged. That's what the step that we are trying to move forward with respect to this apology act speaks to. It will promote that healing and remove what is, in many instances, an artificial barrier that is put in place when good people make mistakes and want to apologize.

Mr. Peter Kormos: Ms. Broten, that's exactly what I'm saying: Apologize and then settle and pay the money. There's nothing wrong with that at all. I have no qualms about the insurance companies apologizing, as long as they pay out. This is all about effecting a lower rate of settlement, a lower quantum of settlement. That's what the research shows in the United States. It's all about expediting a settlement. Read Owen Fiss.

The Vice-Chair (Mr. Jeff Leal): Any further discussion? Mr. Kormos has asked for a recorded vote.

Ms. Elliott?

Mrs. Christine Elliott: I would just like to make a final comment that I do have significant concerns about this legislation. I very much appreciate the comments made by Mr. Kormos, but I'm prepared to support it because I do believe that there is some merit in the value of a sincere apology, in certain types of cases particularly. For that reason, I'm prepared to support it.

The Vice-Chair (Mr. Jeff Leal): Any further discussion? Shall I report the bill, as amended, to the House?

Ayes

Broten, Brownell, Elliott, Naqvi, Rinaldi, Sousa.

Nays

Kormos.

The Vice-Chair (Mr. Jeff Leal): It carries.

That concludes the deliberations of the justice committee this afternoon. Thank you very much for your cooperation.

The committee adjourned at 1501.

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Jeudi 12 mars 2009



Standing Committee on Justice Policy

Coroners Amendment Act, 2009

Comité permanent de la justice

Loi de 2009 modifiant
la Loi sur les coroners

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 12 March 2009

Jeudi 12 mars 2009

The committee met at 0932 in committee room 1.

The Chair (Mr. Lorenzo Berardinetti): Good morning, everybody. Welcome to the Standing Committee on Justice Policy.

SUBCOMMITTEE REPORT

The Chair (Mr. Lorenzo Berardinetti): The first item on our agenda is the subcommittee report dated February 26, 2009, Mr. Levac.

Mr. Dave Levac: This is a report from your subcommittee.

Your subcommittee on committee business met on Thursday, February 26, 2009, to consider the method of proceeding with Bill 115, An Act to amend the Coroners Act, and recommends the following:

(1) That groups and individuals that have already contacted the committee clerk be scheduled to appear on Thursday, March 12, 2009.

(2) That groups and individuals that have already contacted the committee clerk be offered 30 minutes in which to make a presentation.

(3) That the committee clerk, with the authority of the Chair, post information regarding the committee's business one day in the following publications: the National Post, the Globe and Mail, the Toronto Star, the Toronto Sun, L'Express, the Lawyers Weekly, and Law Times (deadlines permitting and on consultation with the Chair).

(4) The committee clerk will also post information regarding the committee's business on the Ontario parliamentary channel and on the committee's website.

(5) The committee clerk will also send out a press release on CNW.

(6) That interested people who wish to be considered to make an oral presentation on Bill 115 should contact the committee clerk by 12 noon on Tuesday, March 10, 2009 (five working days after the last ad is posted).

(7) That on Tuesday, March 10, 2009, the committee clerk provide the subcommittee members with an electronic list of all requests to appear.

(8) That the subcommittee meet at the end of public hearings on Thursday, March 12, 2009, to determine if additional days of public hearing are required.

(9) That the deadline for written submissions be 5 p.m., Wednesday, March 18, 2009.

(10) That, if no additional days of public hearings are required, the committee hold one day of clause-by-clause consideration on Thursday, March 26, 2009.

(11) That legislative research prepare background material on the use of ministerial discretion with regard to the Coroners Act and on the use and origins of coroners' inquests in correction institutional settings.

(12) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

That is your report, Mr. Chair. So moved.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Levac. Is there any debate?

I just had one proposal, and that is with item number 8, that the subcommittee meet at the end of public hearings. We only have one deputation scheduled for the committee this morning, at 9:35, which will run half an hour, and I was wondering if the subcommittee was able to meet briefly after that. I'm just asking. If not, then we can meet—the original idea was to meet after the end of today. That's what it says here.

Mr. Peter Kormos: Chair, we're only sitting until 4 o'clock. We've got lots of time.

The Chair (Mr. Lorenzo Berardinetti): That's fine. I'm just making that suggestion.

Mr. Dave Levac: Can I have some rationale as to why from—

Mr. Peter Kormos: Look, we prepared a subcommittee report. It's not for the Chair to debate it.

The Chair (Mr. Lorenzo Berardinetti): I just put that out, that's all. We'll leave it as it is. That's fine. There's lots of time this afternoon.

Mr. Levac has moved the subcommittee report. All those in favour? Opposed? Carried.

CORONERS AMENDMENT ACT, 2009

LOI DE 2009 MODIFIANT
LA LOI SUR LES CORONERS

Consideration of Bill 115, An Act to amend the Coroners Act / Projet de loi 115, Loi modifiant la Loi sur les coroners.

PROVINCIAL ADVOCATE FOR CHILDREN AND YOUTH

The Chair (Mr. Lorenzo Berardinetti): Our first presentation for this morning is the Provincial Advocate for Children and Youth, Mr. Irwin Elman. Good morning, sir.

Mr. Irwin Elman: Good morning.

The Chair (Mr. Lorenzo Berardinetti): Please state your name for the sake of Hansard. You have half an hour to present. Any time that's not used will be split amongst the three parties to ask questions.

Mr. Irwin Elman: My name is Irwin Elman. I'm the Provincial Advocate for Children and Youth. Thank you for having me here this morning.

I wanted to start by telling you a little bit about my office. It's new. My role is to elevate the voices of children and youth who are in some form of state care, and on their behalf, when they cannot speak for themselves, give them voice. Our office is responsible for children and youth who are seeking or receiving services under the CFSA: youth in custody and youth in mental health residential settings. CFSA is the Child and Family Services Act. Our act also says that our office should take special interest in children and youth with special needs and First Nations children and youth.

We advocate in two different ways. The first is through individual advocacy. We have a 1-800 phone number, and we can accept calls from children and youth anywhere in the province and try to work on their behalf to resolve problems, to deal with issues around rights, and to ensure that the systems that govern their lives are working to support them and help them. We also do systemic advocacy, which takes the form of reviews of services and institutions or residences, as well as changes in policy or systems that young people are seeing that need to be made to help them become productive citizens. We do this work, and the act gives us instruction in many places on how to do it, in partnership with young people, in elevating their voice when we can and not speaking for them—but certainly speaking for them if they ask us to or if they can't speak for themselves. In fact, we're charged with being an exemplar of participation of children and youth, which is a huge task. I would say we're striving to be an exemplar of participation of children and youth. We will hopefully get there one day, but we're new and we're just building. That's our goal as outlined—and I'll speak about that in a minute or two—in our annual report.

I mentioned that we do individual advocacy and have a 1-800 number. At this point, we receive about 3,000 calls, or maybe a little over, per year, although the number is rising as we put the word out that we're around for children and youth in the systems.

I'm relatively new to this job. It's been a little bit more than six months. I wanted to speak a little bit about my experience in those six months, particularly related to the act that's before you.

In the first few weeks after I began, I think I was at Ontario Place with my family and I received a call on my cellphone from somebody from the media. They asked me about the death of an eight-year-old child in Toronto and what I thought of that. I had read the story on the Internet. It was a long weekend—I'm remembering that was in my first two weeks. I had said I thought that there should be an inquest. It seemed like a no-brainer to me, but it was a time when I first learned of the position of authority of my office, because that call for an inquest sort of drove the story for a few days.

0940

I still think there should be an inquest. I thought there should be an inquest because I could only think about the number of points of protection from the little that was reported about the death: whether it was at the school, or where the support to her family was, maybe, when she was two—a number of points of protection that might have been helpful to this child.

I went to this young child's funeral and I met Minister Matthews there. We were both saddened, and we both agreed that we needed to do better for our children, not in a blaming way but in a hopeful way.

A week later, I was contacted by a reporter from Kenora and he told me about a 15-year-old young man who had died being hit by a train. The reporter asked if I was concerned about him. He said, "You know, he lives in the north. He's an aboriginal young man. I know you were concerned about that eight-year-old girl in Toronto. So do you care about him?" This young man, he said, was in the care of child welfare. And I said, "Of course we care." That was the second death in two weeks that I had heard about. If that reporter hadn't called, I'm not certain I would know about the death of that child today. Still a week later, we had a call from a youth service in another part of the province, and they told us about a 20-year-old youth who used to be on extended care and maintenance with child welfare, which means that she was getting a stipend to live on her own. She had left the child welfare system and I know she had a baby, which is what we were told. After her baby was born, the baby was apprehended—this is what we were told—and then she died; she killed herself. Those were difficult calls to hear about.

I had started to ask questions of the people who were giving me a primer on how things worked. I talked a lot to the assistant deputy ministers at the Ministry of Children and Youth Services and I asked just how many deaths of children known to the child welfare system there might be. Remember—I want to be clear—when I ask that question, I'm not talking just about children in foster care residences; that's a very small proportion of young people and children known to the system. I'm talking about the broad range of children and youth known to the system who might be in intake when child protection services get a call or they might be in family service cases. I learned that in understanding how many children and youth might die, the ministry and the coroner talk about young people or children who might

have had a case open up to a year later, and it was closed. So after the case has been closed, a year later, they still try to track the number of deaths.

It's a very broad range. The number, they told me, was 80 to 90 children and youth a year. I was surprised; I didn't think it was that many. I asked some more questions, and I was directed to the PDR, pediatric death review, committee report that talked about the deaths and reviewed some of the deaths. I talked to people at the coroner's office to ask some more questions and I understood that the number was 90 in 2007.

Because of my mandate, I consider all the children who died, regardless of how they died, to fall within my mandate. I believe that is important—to learn about the lives of the deceased in order to better serve the thousands of other children and youth in care.

That's an important distinction between me and the coroner: The coroner has done a great job in terms of trying to understand how children died; I want to understand how children lived. I think that's a compatible complementary role with regard to young people who are connected to the province.

I asked many people about that number—90. I met with public health medical officers, and I talked to them about the number. There was a meeting of chief public health medical officers of the province. I told them the number, and they were surprised. I said, "No, I want to be clear. It's a very broad range—a very broad range." They said first something the Premier said, which was, "One is too many," and second that they understood how broad a range it was. But they hadn't heard; they didn't know.

Remember my role, now—me, whose role it is solely to speak for young people and children connected to the province in some way. We, as a province, didn't know about them. I felt the need to make sure that we know, not necessarily how they died—in fact, that's not the point of my report, and I'll speak to that—but we need to know because in some ways we've made an obligation to these young people and children by at some point saying that they were in peril, and because we as a people have made that promise to them that we will try to do something.

I highlighted these deaths. I felt compelled to highlight these deaths in my annual report. I want to say that I did so in my own report in keeping with my belief. The full tone of the report is to focus all of us—advocates, children's mental health professionals, public health professionals, schools, government ministries, members of the public and child welfare—on our most vulnerable children. My question was, how did these children live? What can we learn from them?

I know that some have taken a message of blame from my report when I specifically said I don't want to blame. That's not the point. The message that I hope people would take away from this is that we all need to work together to understand how these children lived and how we can find a way to make a difference for other children coming after them.

Of the deaths reviewed by the coroner, we know that the majority were preventable. The report cited some of the strategies that the coroner suggested would help, and our report listed them. But what we don't know is how the children lived. It would be unfortunate if our report became a blaming exercise rather than a call to action for all of us to work together.

Child welfare professionals cannot solely be responsible for the care and protection of our children. It is a tough job, and all of us must share the responsibility. I believe that everyone who is involved in a child's life can work toward gaining an understanding of their life, not just the deaths of children and youth—and we need to do that to better serve the living.

0950

When I heard about, as I said, that eight-year-old girl in Toronto, I thought about what could have been a point of protection for her well before—even years before—she was found in that apartment. What kind of resources might have helped her family and produced a different outcome for her? Did the child ever find a supportive adult she could turn to? We know children and youth always say to us that one of the key things that would make a difference in their lives or does make difference in their lives is that one supportive adult. So how do we, as a province, find ways of making sure children and youth have that supportive adult in their lives? How might her school have made a difference over the years? Those are things I was thinking of when I thought about points of protection for her.

In September, I formally asked the Ministry of Children and Youth Services and the chief coroner for information related to the two deaths in 2008 and the 90 deaths in 2007. I sent a second formal request to the coroner in October. I eventually understood from them that my act did not give me the authority to receive the information, and I believe that they were right. They couldn't just hand me the documents, because my act didn't allow them to.

By that time, I had begun to work on a protocol with the Ministry of Children and Youth Services to try to get information, not just on child deaths, but information in general. It was collegial and, I guess, hard work, but in the new year we did sign the protocol. That protocol is still in effect and provides a single point of access for requests for information. I could receive documents without blacked-out pieces or redacted information, if my act allowed it, and I could receive documents that were redacted or with blacked-out information through the Ministry of Children and Youth Services privacy unit. At the time of the protocol, in the new year, it was understood that I would be able to apply for documents in the care and control of the ministry. That would include any paediatric death review committee reports, as well as child fatality summary reports, which are reports that child welfare organizations give to the ministry relating to the deaths of children.

Following the signing of the protocol, I re-requested the documents related to the children's deaths, and I'm

told I should receive that child fatality summary report on Friday—this Friday coming—but I won't receive the PDRC reports. I learned last Friday that I would need and will need to create another protocol with the coroner's office in order to receive those reports. I worried, and I think justifiably so, that our office would eventually need a protocol with almost each ministry to access information, remembering—and maybe it's because I was a tough bargainer; I'm not sure—that it took five months to create the first protocol.

Let me speak about redacted documents. In terms of what we're talking about today, it's not as simple as just taking the name of somebody out of the document. The privacy unit of the Ministry of Children and Youth Services had told me, "You know that eight-year-old girl you were concerned about who was in the press so much? If we have to take out all the identifying information, which is what we would have to do, you probably wouldn't get much of anything in terms of a report because you would be able to identify her."

That was a problem. We had already had an experience similar to that when we were transferring over from the ministry to being independent. Some of the files that we had transferred over had to be blacked out or redacted. That would mean that we had very little information in it. So that was problematic, to think about redacted information coming back to us, remembering that I haven't received the information yet. In terms of privacy, our act places strict requirements on what we may do with information. We cannot identify children or young people.

In a meeting two days ago with the Ministry of Community Safety, the coroner's office and MCYS political staff, I was asked what we might do with information. I wanted to explain that to you quickly. In New Brunswick, the child advocate produced something called the Ashley Smith report. This was a 19-year-old girl who died in custody. There was an inquest to be held, but a year before the inquest, the child advocate, using the information he was able to access through his information legislation, the legislation that he had, created a report about Ashley's life. Through that, he created recommendations for the government of New Brunswick. People thought he was going to report only to corrections, but there were fully 10, 15 pages of recommendations to almost every ministry in the government using the life of Ashley and all the things that could have produced different outcomes. It's an example of what we could add. So, in short, while the coroner has a focus on the death of a child, we have a focus on the life of a child. Both of us do that in hopes of better serving children in our province.

Yesterday at 5 o'clock, I got a call from Graham—I think he's sitting here—from Minister Bartolucci's office. It was as a result of our meeting two days ago. He told me that we were going to be able to say today that the government intends to create a bill, perhaps a good government bill, that would change our legislation and give us access to the information we need. I can't tell you

how pleased I am by that. It was a very good meeting with lots of goodwill. I know the Premier is committed to helping our office do good work, and I thank him for his support, commitment and leadership in that. I thank the people from the coroner's office, Minister Bartolucci's office and Minister Matthews's office for being at that meeting. Of course, it's only been six months, but it didn't just happen. I'd have to say that the opposition parties were helpful in having this step take place, I think.

In the meantime, we were going to ask for an amendment to Bill 115 to gain access to information. We won't be doing that. We will take up the offer from the coroner's office to create a protocol in the meantime, while this bill to gain us actual access to the information is passed, and I do hope it has the support of all parties.

That's what I wanted to say.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Elman. There are just over six minutes left, so two minutes per party. We'll start with the Conservative Party.

Mr. Garfield Dunlop: Thank you very much, Mr. Chairman, and thank you for coming this morning. In your presentation, on page 2, you've got the comments on Bill 115. I want to make sure I'm clear on this. Are these specific recommendations that you would like to see included in Bill 115?

Mr. Irwin Elman: Yes, that's correct.

Mr. Garfield Dunlop: So you would like to see the bill incorporate that as part of your presentation here?

Mr. Irwin Elman: Yes.

Mr. Garfield Dunlop: Okay. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Kormos?

Mr. Peter Kormos: Thank you for coming here today, Mr. Elman. First, you've demonstrated in a relatively short period of time that you're conducting your role with integrity and courage. Secondly, some of us who have been around a while are cautious about premature thanks, but we'll keep poking, if need be.

You're the child advocate for the whole province.

Mr. Irwin Elman: Yes, sir.

Mr. Peter Kormos: Including remote northern communities like Peawanuck and Attawapiskat?

Mr. Irwin Elman: Yes, sir.

Mr. Peter Kormos: How many staff do you have?

Mr. Irwin Elman: Nineteen.

Mr. Peter Kormos: How many of those staff are support staff and how many of them can perform investigative roles?

Mr. Irwin Elman: We don't have investigative powers, but what you're talking about are advocates. We have 12 advocates.

Mr. Peter Kormos: Yes, I'm sorry. So 12 advocates.

Mr. Irwin Elman: And me.

Mr. Peter Kormos: And you. For the whole province of Ontario?

Mr. Irwin Elman: Yes, sir.

Mr. Peter Kormos: How many offices do you have?

Mr. Irwin Elman: We have one office.

Mr. Peter Kormos: You don't have a northern office to accommodate northern communities?

Mr. Irwin Elman: No.

Mr. Peter Kormos: You don't have one up near Kenora—Rainy River for that whole community of small aboriginal communities up there?

Mr. Irwin Elman: What I would say to you is that we don't yet. We do have, in our annual report, a plan to do that and our budget is in to the Board of Internal Economy. If we have our budget passed, we will.

1000

Mr. Peter Kormos: Thank you. If the government allows that through the Board of Internal Economy, that will be an interesting—

Mr. Irwin Elman: That will be interesting.

Mr. Peter Kormos: I don't quite agree with you in terms of the response to the Katelynn murder. I think that warrants a full public inquiry. In my view, the inquiry has to consider things far beyond the scope of the coroner in the Coroners Act, because we're talking about everything from the beginning to the end, and that involves, as you've mentioned, schools; it involves Jarvis Street family court house and how well equipped they are to handle these sorts of things; and it involves the role of any number of seemingly ad hoc child welfare agencies.

It seems to me that part of your role might be to assess, audit and determine how effectively some of these ad hoc transfer payment, self-identified child welfare agencies are really performing their jobs and whether they're working well, in view of the huge number of players, none of whom seem, from time to time, to be able to get their acts together. Thank you kindly, sir.

Mr. Irwin Elman: Thank you.

The Chair (Mr. Lorenzo Berardinetti): From the Liberal Party, Mr. Levac?

Mr. Dave Levac: First and foremost, thank you for your presentation today, Chief Advocate. I also wanted to make sure that I say, as an educator for 25 years, thank you for the job that you're doing. It's an extremely important job and one that, in the creation of the advocate for children and youth, is long overdue. Many people had an opportunity to put someone like you in this position and I'm glad that you're here.

Contrary to the characterization that's been given by some, you have had an impact, and if I heard you correctly, since our first meeting and your first presentation, there has been some accepted action taken to accommodate the concerns that you've outlaid, and you have been meeting with people to ensure that your concerns are addressed.

Given that comment that you made, first of all, thank you for that. Sometimes it would be easy not to claim that there is work being done. Far too often, we end up getting into a rut of saying, "Nothing's getting done," but it takes an awful lot of determination and behind-the-scenes work to pull these things together. You indicated that first there was a protocol evolved, that there was a second protocol being worked on, and that, if I get this

right, you believe that this legislation which you're referencing, which has been committed to being put out—the Coroners Act in how it's being proposed—would not be the focus; the legislation that you're seeking would be the focus because it's about finding out what happens in death. The other legislation that you're talking about is preventing it, if possible, and getting in front of that, and that's even more exciting. I'm guessing—and I'll let you respond—it's more exciting for you to have that piece of legislation than worrying about how this piece of legislation works, as long as it's complementary to that piece of legislation.

Mr. Irwin Elman: The amendment to our own act that we're talking about is about accessing the information. I'm sure that there will be, as we spoke of in our meeting a couple of days ago, some back and forth about what we'll do with that information. I know that coroners are very interested in that and not carrying out a duplicate procedure. That will take some work, I think, and negotiation back and forth, but the opportunity it provides is to allow us to have information to do exactly what you said—to focus on the lives of children.

Mr. Dave Levac: Again I just want to say thank you sincerely for the work that you do. It means a tremendous amount to the province but, more importantly, to the parents and to the children of the province of Ontario. I'm a fan. Thank you.

Mr. Irwin Elman: Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): And thank you, Mr. Elman, for coming out this morning. That concludes our deputations for this morning. I will move recess, and we will return again at 2 p.m. in this room.

I've been advised by the committee clerk to ask you to take your materials with you when you leave. Don't leave things behind here because catering will be coming in here and the door will be open. It's best to take your stuff out.

Thank you. We stand adjourned until 2 o'clock.

The committee recessed from 1005 to 1404.

DEFENCE FOR CHILDREN INTERNATIONAL-CANADA

The Chair (Mr. Lorenzo Berardinetti): I call the meeting to order. It looks like petitions have ended. This morning we heard from our first deputation. We'll now move on to our first afternoon deputation, our 2 o'clock deputation, which is Defence for Children International-Canada, Matthew Geigen-Miller, vice-president. If you could state your name and title again, just for Hansard. You have half an hour. Any time that you don't use in your presentation is divided up between the three parties to ask you some questions.

Welcome to the committee.

Mr. Matthew Geigen-Miller: For the record, it's Matthew Geigen-Miller, Defence for Children International-Canada.

Thank you very much for the opportunity to appear before you in regard to Bill 115.

I'm in the unusual position here of having half an hour. I'm used to the 10- or 20-minute slots. It's a bit of a blessing and a bit of a burden. I'm going to try to make it more of a blessing and less of a burden for you. I'll tell you how I'm going to go through my presentation, and then I'll just get right into it. I'm not going to read from the paper, but it's in front of you.

I'm just going to give a little bit of background information about Defence for Children International-Canada, or DCI-Canada, and then get right into the substance of our submission.

Defence for Children International-Canada is the Canadian branch of a worldwide network called Defence for Children International. It was founded in 1979, which was the Year of the Child, and its mission is to promote, implement and monitor the full realization of the rights of the child around the world.

A key focus for the organization is children's rights in juvenile justice systems. This has been identified as a priority internationally, and it is also a priority of the Canadian branch. We have additional areas that we focus on in Canada, and a couple of those are the situations of children in various forms of state care as well as the voice of the child—bringing the voice of the child into government, administrative and other kinds of decision-making processes in order that the child's right to be heard, under article 12 of the Convention on the Rights of the Child, might be realized.

These interests have brought us into a whole bunch of different projects over the years, including gaining standing in a couple of different coroners' inquests that were investigating the deaths of children who died while in state care. We were also a party with standing at the Goudge inquiry, so we're very familiar with that inquiry and the issues that were before it. We also initiated and led the campaign to establish an independent office of the provincial child and youth advocate in Ontario. The last time our organization was before this committee was when it was setting Bill 165, as I'm sure you recall.

The summary of recommendations is on the first page, but they also appear throughout the paper in the order in which we discuss the issues. I'm going to talk about three things, essentially: I'm going to make a few comments about Bill 115, and then I'm going to talk about two things that aren't in Bill 115. One is something that we believe should be in Bill 115: the way that child deaths are monitored and reviewed in the province of Ontario. The second is very closely connected to Bill 115, in that it concerns other recommendations coming out of the Goudge inquiry which are of interest to the Legislature.

Generally speaking, we are very supportive of the Goudge inquiry recommendations, and we're very supportive of legislation that is aimed at implementing Goudge inquiry recommendations. Without getting into all the details, we're pleased to see measures in the bill that will codify the role of the pathologist, that will establish a death investigation oversight council, and that will establish a complaints process and a complaints committee to address complaints against coroners and

pathologists. I think we all recognize that not absolutely everything that was in the Goudge inquiry recommendations is reflected in the bill, but from our position, this is good progress and it's helpful progress and it will help to restore public confidence in pediatric forensic pathology in Ontario.

There are a couple of concerns that I'm going to raise.

First, I assume that you've already heard from other people—I suppose there was only one other person before you today. We're very concerned about the elimination of the Solicitor General's power to direct an inquest. I know that the Solicitor General is a ministry of many names, but I'm going to use "Solicitor General" for the sake of simplicity. I think that ministry has had eight different names in the past 10 years. We all know that at present, the Solicitor General can direct the coroner to call an inquest, and that the bill, as it's drafted, will eliminate this power. We're very concerned about this, because one of the inquests that we were directly involved in was an inquest that wouldn't have been possible if there hadn't been a power to direct that an inquest be called. That was the inquest into the death of Stephanie Jobin.

1410

Stephanie Jobin was a 13-year-old girl who was killed by two workers in her Brampton, Ontario, group home. They suffocated her by placing a partially deflated beanbag chair on her back and then straddling her or sitting on her for a significant period of time. She died as a result of that incident and the coroner in that matter determined that there was to be no inquest. It was only because of the determined efforts of an investigative journalist, Victor Malarek—many of you are familiar with him—who did quite a bit of work for the Globe and Mail and for the CTV program W5. That brought about a lot of public pressure on the Legislature, on the government, to call an inquest.

I don't recall whether or not that actually was a minister-directed inquest—I don't think it was—but that's not the point. The point is that there is political accountability at the ministerial level for whether or not an inquest is called. What that means is that, because the minister is in a position to call an inquest, sometimes inquests get called that might not otherwise have been called because of public pressure. What the ministerial power does is make the Legislature the court of last resort for people, quite often family members, who feel that an inquest ought to have been called.

It's our position that the Legislature is the place that should be the court of last resort; that it's appropriate for family members, interested persons, journalists and other members of the Legislature to hold a minister accountable for that decision in those rare cases. So we're recommending that the committee decline to pass the clauses that eliminate the minister's power.

We have a mild concern in regard to the new expanded role of the coroner's investigations. Essentially it looks like this: The way the bill appears is that a coroner's investigation will now result in recommen-

dations, and those recommendations may be made public. It seems that the policy at the heart of this is to either take some inquests that would have been inquests and convert them into coroner's investigations or maybe to take some cases where there was some sort of investigation and it wasn't made public and to make those public for once. I think it's probably a mix of the two, but what's really important here is that, if we are shifting some of the inquest workload, if you will, to coroner's investigations that result in coroner's recommendations, those recommendations and findings should be as public as a coroner's inquest verdict would be. In shifting the workload a little bit, we shouldn't be eliminating the important role that an inquest performs in ensuring transparency, openness and public accountability. This is one of the fundamental purposes of a coroner's inquest, as has been ruled by the courts, and it's been observed by law reform commissions and so on.

The bill goes pretty far down this road, but what we would do is not allow the coroner to restrict distribution of recommendations or findings to a segment of the public. We would want the coroner's recommendations and findings to be distributed to the public the same way a coroner's verdict from an inquest would be.

Now I'm going to get into the main part of our submission here. This is the part that is not about what's in Bill 115, but what is not in Bill 115.

For some years now, DCI-Canada has been very concerned about the absence of a comprehensive, independent, transparent system of child death reviews in the province of Ontario.

Mr. Peter Kormos: Sorry, what?

Mr. Matthew Geigen-Miller: Child death reviews.

There are many jurisdictions in Canada, the United States, Australia and other parts of the developed world that have very sophisticated child death monitoring and review systems. These systems do things like gather statistics, analyze them, compile them, and review cases. One of the common features of a child death review system is to review cases where a child has died who was in the care of the state. Obviously this is a circumstance that requires a great deal of care and scrutiny by some sort of public authority and by the community.

There's been quite a bit of back and forth, as it happens, in recent weeks about issues to do with the Provincial Advocate for Children and Youth and the paediatric death review committee. Our position isn't to do with that back and forth. We've been advocating this for some years. Our starting point is that children aren't supposed to die. Everyone in this room understands this intuitively. It doesn't seem right when parents or even grandparents grieve their own children or grandchildren. This is why we regard the loss of a child as especially tragic. This is why international human rights standards require Canada, and every other country, to put special measures in place to protect children's lives and to respond to their deaths.

Secondly, when a child is in the care of the state, and I'm talking in the care of the state broadly—foster care,

group home, mental health care, custody and so on—there is a special requirement on the state to provide special care and assistance to children, and to respond and review the deaths when those children die. I have cited a number of articles of the UN Convention on the Rights of the Child in my submission, and I've also cited examples in our domestic law. Our domestic law recognizes the special care and protection that we give to children in state care: The Child and Family Services Act sets out special rights for children in care; we've created an Office of the Provincial Advocate for Children and Youth, which children in care can access; even the Coroners Act recognizes that certain kinds of deaths of children in care, such as custody detention, result in mandatory inquests, others may result in discretionary inquests—all of them result in a coroner's investigation.

At the international level and at the domestic level—the national level, the provincial level—communities have recognized the importance, firstly, of monitoring the deaths of all children; and secondly, paying special attention and care when a child dies while under the care or supervision of the state.

I'm going to make a couple of comments about the system that we have in Ontario right now, and then talk about what we are proposing. In terms of what we have right now, there are roughly three categories of deaths of children in the care of the state in Ontario. There are those deaths that result in a compulsory coroner's inquest; there are those deaths that are referred to the paediatric death review committee, which operates under the auspices of the Office of the Chief Coroner; and there are those deaths for which there is no system in place right now to track and monitor.

You're probably aware—and I see there has been a memo prepared by the Legislative Assembly researcher—that for children who are in custody, the actual custody of a police officer and so on, there's a compulsory inquest. So this is one of the ways that we review the death of a child who died under the state's care.

Coroner's inquests are very good at being public and open and making government and public services accountable, airing the facts so that there are no doubts or suspicions left about a person's death and the circumstances of it. They do have downsides. One of them is cost. Coroner's inquests are extremely expensive. They're very expensive for the government; they're very expensive for the people who participate in them. Coming from an organization that has participated in inquests—you can't do it without a lawyer, and the legal fees are tens of thousands of dollars. Not many people have that kind of money.

Inquests—formally speaking—although not intended to find fault or assign blame, are, in practice, sometimes very adversarial because people involved in coroner's inquests are seeking to evade blame or to point the finger. This can result in an adversarial dynamic that frustrates the truth-seeking function of the inquest.

Inquests are also limited in scope. They're really tied to the five questions that the inquest jury must answer

about a deceased person: the identity, how the person died, when, where, by what means—the medical cause of death. There's a little bit of room to get into systemic issues in a coroner's inquest, but this is usually governed and limited quite strictly by the coroners who don't want a coroner's inquest to become a public inquiry or a royal commission. And that's proper, but it also frustrates the attempts of community members, family members, activists and so on to pursue systemic issues that might be identified through a person's death. These inquests have no institutional memory. Obviously, a jury doesn't sit for more than one inquest. You're learning from scratch every time there's an inquest, and you don't develop competence or expertise through coroners' inquests—or at least the people making the findings of fact and recommendations don't.

1420

I'm going to talk a little bit about the pediatric death review committee. This is a committee that DCI-Canada has been following and has been interested in for some years. This is a committee that is set up under the office of the Chief Coroner. Amongst the other jobs that it does, it reviews the deaths of all children who had an open CAS file at the time that they died. We have expressed on many occasions a number of concerns about the way this committee operates. Without getting too much into the details, our concerns relate to the fact that the committee membership is heavily stacked with people from within the child protection authorities as opposed to people from outside. It also has in its membership lots of doctors, law enforcement officials and so on, but in terms of the people who bring the child protection expertise to this committee, it is largely people from the child protection community.

We're concerned that this committee tends to be compartmentalized in the sense that it's a committee full of doctors, but at the Goudge inquiry, we heard testimony that the child protection part of the committee tends to focus on the child protection work, and the doctors focus on the complex medical cases. They're sort of deferential to each other about each other's territory. So we don't actually have a whole committee, it appears, from this testimony. We don't have it reviewing these cases; we have child protection people from the child protection system reviewing them and other people being part of that process, but being very deferential.

I've had the opportunity to read some of the reports that this committee has produced—not the reports that they make public, but the reports about individual cases which were disclosed to the Goudge inquiry—and these reports were very poor. I worried that they were representative of all the reports that this committee produces. In some cases, they didn't contain basic information like how a child died, and, of course, this committee has had a very poor track record of producing public reports.

What we need in Ontario is a comprehensive process to review child deaths. I've set out a prescription for what that should look like. It's based on many reports, many

studies that were commissioned by governments in other provinces, other territories, other states that we can learn from; examples of practice in other provinces, other states that we can learn from. The basics of it are this: You need data collection and analysis regarding all children who die. You need a comprehensive mandate to review the cases of all children in care who die, not just a pediatric death review committee for CAS cases and then nothing, for example, for children in the mental health system, but one body that covers all the children in care. It needs to be independent of the government agencies that were responsible for children at the time that they died. It needs to be multidisciplinary—and that doesn't just mean five types of doctors, but doctors, different types of professionals, community advocates and people with lived experience. It needs power to access government records, and it needs to have a transparent public reporting process.

For us, this is the beef of our submission, and it's very important to us that the committee seriously consider what a comprehensive child death review process in Ontario would look like.

I'm just going to wind up with a couple of other comments. An issue that we have been pursuing following up from the Goudge inquiry that's not in the bill is the issue of wrongfully separated children. We all know that there were wrongful convictions as a result of the work of Dr. Charles Smith. What many people are not aware of is that when their parents were arrested and wrongfully convicted or wrongfully prosecuted, there were children who were taken into the care of children's aid societies and taken away from their families. Throughout the Goudge inquiry one of the things that DCI-Canada focused on was trying to find ways to bring justice to these children, ensure that they're included in compensation, ensure that they're informed about what happened to them and so on.

Appendix B of our submission is a letter that we sent to the Attorney General, the Minister of Children and Youth Services and the heads of the two Attorney General's panels. I'd like you to please take a look at that and be aware of this important issue. The Minister of Children and Youth Services did meet with us in January and was very receptive, but we need all members of the Legislature to be advocates on this issue, not just one minister.

I see that I'm about 20 minutes in now, so I'm going to open it up for questions at this point.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Geigen-Miller. It was a very interesting presentation. There are about nine minutes left, so that's three minutes per party. We'll do this in rotation, so we'll start with the NDP and Mr. Kormos. You have about three minutes or so.

Mr. Peter Kormos: Thank you kindly. I scanned very quickly, obviously, your written materials. I still listened to you; notwithstanding my age, I can still manage to do that.

You didn't discuss this, but I'm interested in the roles of children's aid societies—family and children's services. These are Victorian models of child welfare. They're private organizations. They have boards that are chosen in backrooms; they're not elected by the communities that the service operates in. Every time, of course, there's a follow-up in a family and children's services operation, we can ask the minister all we want, but all they do is give them money. It's an arm's-length type of operation.

Have you ever considered—and again, the fact that these are Victorian models; they're private organizations with no direct accountability to the Legislature—as I've increasingly considered, the need to have the state, through the appropriate ministry, as a public service—part of the public sector—conducting all of child welfare? In other words, it has been privatized for far too long. Have you considered the need to have civil service professionals, accountable through their minister, do those services in community after community?

Mr. Matthew Geigen-Miller: Well, that's an interesting question. It's sort of like much of what I talked about in my submission. It didn't have much to do with the bill. That doesn't have much to do with my submission, so there you go.

Mr. Peter Kormos: With that said, maybe you've thought about it.

Mr. Matthew Geigen-Miller: No, no. It's good. It's fine. It's meant to be a joke.

The issue of children's aid societies is an interesting one, of course. Child protection in general was born in the Victorian era, so of course children's aid societies were. I should say at the outset that we certainly don't have a position at DCI-Canada in regard to abolishing children's aid societies.

Years ago, I had the opportunity to work for a national organization that organized young people in care, and I dealt with all of the provinces and all of the child welfare authorities in all of the provinces. Of course, most of the provinces in Canada have exactly what you've described, child protection services delivered directly by a government department and not by children's aid societies. What has always struck me about that experience is that the concerns and complaints and problems in all of the provinces were about exactly the same, and the way that the bureaucracy was organized didn't seem to be a deciding factor.

There are interesting questions that you raise about organization and accountability and governance, but I'm afraid I just don't have a viewpoint to offer on that. I have certainly observed that they still have difficulties in those jurisdictions with the other model that you've proposed.

Mr. Peter Kormos: This will result in a flurry of e-mails to me—once this Hansard is published—from both people who agree with me and from directors of various children's aid societies who don't want to lose their big salaries.

Mr. Matthew Geigen-Miller: And I'm trying to avoid a flurry of e-mails to myself, but—

Mr. Peter Kormos: Oh, you'll get them too.

Mr. Matthew Geigen-Miller: But it has never occurred to me that we ought to abolish children's aid societies. It is a peculiar system that we have in Ontario, and definitely an accident of history, but I don't see it being any less effective than in other provinces.

Mr. Peter Kormos: Okay. Thank you kindly.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the Liberal Party. Mr. Levac?

Mr. Dave Levac: First, Matthew, thank you very much for your presentation and your thoughtful package that you've left with us to look at. I am not quite as old as Mr. Kormos, but I was able to skim that and also catch the gist of your comments.

You're aware that the one issue—and I find it to be not overpowering—you brought up that the minister removing himself or, in the recommendation for the legislation, the minister being removed from the capacity to call an inquest, hasn't been used in about 25 years. You were right when you caught yourself. It was not a ministerial intervention. I think in 1985, and this is where Peter can help me—Ken Keyes—I think that was in a note somewhere—

Mr. Peter Kormos: The fall of 1985.

1430

Mr. Dave Levac: In 1985, Ken Keyes used it in a boating incident.

Having said that, your presentation is based on your perspective as the leader of a group that—again, a compliment: I appreciate any group and organization that speaks on behalf of children. The perspective of this review, though, took place in terms of the pathology piece, the death investigation piece, to improve that—and Goudge indicated in legislative changes. You're aware that the bill addresses all of the legislative recommendations of Goudge—not all 169, but the implementation of the legislation and the changes that are taking place talk about that.

Are you also aware that the previous presenter, Irwin Elman, the child advocate, indicated that he felt satisfied and buoyed by the fact that in his conversations with the ministry and staff, the concerns that they raised about the children's issues and the communication and the data are going to be dealt with outside of this legislation, which is to specifically deal with the Coroners Act? Are you aware of that, and would any of that information be helpful in what you're presenting regarding the data collection and the proposal of an independent child death review inside of that process?

Mr. Matthew Geigen-Miller: I should clarify. This is probably a point of confusion for a lot of people. We're not necessarily saying that the child death review process has to be located inside the advocate. I addressed this somewhere deep in the paper: We are aware that there was a proposal circulating to have the coroner furnish the advocate with records whenever a child who was within the advocate's mandate group died. We, in fact, first

recommended that in a report that we published in 2003. So that's not a new recommendation for us. You might say, to put it colloquially, we recommended it before it was cool. For us, the provision of information to the advocate is important, but it's not the same thing as saying that we're going to set up a comprehensive, multidisciplinary system of child death reviews in Ontario. That's a totally separate question, from where I sit, and it is important. First World jurisdictions that are where they need to be have these in place: many states in the United States, I think every state in Australia, some provinces in Canada. British Columbia has the strongest system in place right now, and that was put into place in 2006, when they brought in new legislation. We should learn from that legislation. It's very strong legislation. We could have something like that in Ontario. We could keep on top of systemic trends in regard to child deaths, and we could provide concerned members of the public with the assurance that there is transparency, there is openness, in how deaths are investigated when a child dies under some sort of government care or supervision.

Mr. Dave Levac: Thank you for that. I'll ensure that that comes to staff's attention.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the Conservative Party and Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much for your presentation today. It was very thorough.

You did point out on page 4 that you'd like to see that one amendment removed, on the minister's ability to call the hearing, and I would agree with you on that. It looks like that's a fairly contentious issue.

I don't really have any questions for you. I just appreciate the fact that you've made the presentation today and it's very thorough.

Mr. Matthew Geigen-Miller: Thank you. A point that I did make, since you didn't ask a question, was that something's got to give. When we stop having the ability to lobby a minister for a coroner's inquest in the Legislature, people are just going to start demanding public inquiries all the time. That's far more expensive and far broader in scope. Is that what we want, when the only thing that needs to be done is to have a process that ensures that the circumstances surrounding a death are properly investigated and the facts made available to the public? That's not necessarily a situation that calls for a public inquiry. They're far more expensive. They're far more time-intensive. Is that what we're going to have now: lobbying for public inquiries more and more? I put that question out there and I hope someone's able to answer it, because I wonder if that's where we're going.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much, Mr. Geigen-Miller, for your presentation.

MARYANN MURRAY

The Chair (Mr. Lorenzo Berardinetti): We're going to move on now to our next deputation, Maryann Murray.

Hello, good afternoon. I'll point out, as with every other deputation, that you have half an hour to do either

an entire presentation or a partial presentation. Any time left over is divided among the three parties for any questions they may have of you. Welcome to the committee, and please feel free to commence.

I'm wondering, just while you get ready, is it perhaps better to turn on the other microphone, on the other side there? Thank you.

If you just want to state your name for the record, for Hansard.

Ms. Maryann Murray: Thank you very much for allowing me to speak here today and to share our family's concern regarding Bill 115, as it now stands.

First, let me explain that I'm not a medical or legal expert. I'm not a politician. I'm probably the most unpolitical and unprofessional person that you'll meet here.

The Chair (Mr. Lorenzo Berardinetti): That's fine, no problem at all, but just for the record of Hansard, they'd like your name.

Ms. Maryann Murray: Okay. My name is Maryann Murray and I'm from Carlisle, Ontario.

I would like to start by saying that I have great respect for Justice Stephen Goudge, his inquiry and his recommendations. I have read many of the transcripts and I've read all 169 recommendations. I can see that these recommendations are good ones, but they're all centred around the pathology at the coroner's office and are not representative of all areas in that office.

With regard to changes proposed in Bill 115, I don't think I'm contradicting the recommendations made by Justice Goudge when I express concern in two specific areas. The first, which you may not be aware of, is the term that's used in the bill. There are six times that they use the term "natural" in that bill, and I'll explain in just a moment. The second is the proposal to remove the power of the minister to call an inquest. I know that it has only been used once, and I would like to argue that that's what should be changed—not removing the power but that it should be used a lot more frequently.

To explain why I feel compelled to express my concerns today—I can tell you that public speaking isn't my favourite thing to do—I will share my background and my experiences with the Ontario coroner's office. Our family has dealt with this office for the past six and a half years. We have dealt with four chief coroners or acting chief coroners. By the count of the recent January 2009 report from that office which closed our daughter's case, there were 10 regional, deputy chief or chief coroners involved in the case, and that doesn't include the original coroner. We have a fair amount of personal experience with six and a half years and 11 coroners from that office.

Our relationship with that office began in 2002 upon the death of our daughter Martha. Martha was a nursing student, and she had long suffered from a chronic health condition called hypokalemia, or low potassium. Her treatment regime had been set up years before at the Hospital for Sick Children and it was well documented in her medical file. It wasn't really a problem. There were also abnormal EKGs in her medical file and, unknown to

us at the time, there was a specialist's report that said that lithium should not be prescribed to Martha to treat her mood swings that had developed.

In the summer of 2002, the treatment plan and the warnings were ignored and, without our knowledge about those warnings, Martha was prescribed lithium. When she complained of rapid heartbeat, she was dismissed and told she was experiencing panic attacks. Then, based on one, lone blood test done that summer, the lithium dosage was increased by 30%, and she was told to increase her potassium supplements. For any of you who are aware of lithium, if you're on that drug, potassium supplements don't work. The correct treatment would be to prescribe spironolactone, which is a potassium-sparing drug, but that's more of an aside.

1440

Thirteen days after these medication changes occurred, Martha's father found her in the morning, dead on her bedroom floor. She had had a fatal cardiac arrhythmia at age 22.

This photo was taken a week before Martha died. You can see she looked very healthy and we had no reason to suspect what was about to occur. This was a death that could have been avoided right up to the moment it occurred. The system failed our daughter.

When Martha died, the police were first on the scene, but their investigation quickly stopped on the direction of the attending coroner. You see, as confirmed in a 2009 report on Martha's death, the coroner's office very quickly determined that the circumstances of Martha's death were non-suspicious. Medical files were not examined prior to autopsy and there was not even a cardiac autopsy done. When the test results came back, there was no evidence found as to why she had died. The toxicology tests showed no alcohol or illegal drugs and her lithium levels were far below anything that would be considered a lethal dosage. After a cursory review of partial medical files in March 2003, Martha's death was identified as natural and the case was closed. So you're starting to see why I have some concern about the use of the term "natural" in this act.

I've provided you all with a paper created by the coroner's office for internal use. They call it the "by what means" document. This document explains how coroners determine a cause of death. I would ask that you perform a bit of an exercise. If a patient takes a drug despite a medical warning, I'd like you to consider how you think that death would be classified. I would suspect it would be either under "suicide" or "accidental." If a parent gave a drug to their child despite a written medical warning, we might come up with a different definition. However, if a physician prescribes a drug despite a specialist warning in that file, this death will be classified in Ontario as "natural."

In 2003, we were provided with autopsy and toxicology tests that revealed no apparent cause of Martha's death, so we asked for an inquest. I'm sure that, since there was no inquest, you know we were turned down. However, the PDRC did warrant the medical

files—all of them, this time—and they did write a report. They found that, they actually noted—

Mr. Peter Kormos: This is the PDRC?

Ms. Maryann Murray: The pediatric death review committee.

Mr. Peter Kormos: Yes. I just want to make sure.

Ms. Maryann Murray: The pediatric death review committee at the Office of the Chief Coroner. Because her medical condition had started when she was a child and had been followed from Sick Kids, the PDRC stepped in.

They found that she shouldn't have been given the lithium. They cited an animal study where all subjects that had low potassium and were given lithium died within 20 days. But they made no recommendations. There were no recommendations to prevent this from happening to someone else. So we started to lobby.

We went to the media. We came to Queen's Park twice. Shelley Martel brought it up, and the minister of justice and public safety was asked to order an inquest. But Mr. Kwinter, who was the minister at the time, declined, saying that no minister had ordered an inquest and he wasn't about to be the first. I'm sure you can understand that, as a mother, I don't think that's a great reason for turning something down.

But that created enough pressure that there was a patient safety review report and there were some provincial recommendations made. The coroner's office itself finally agreed to start reporting adverse drug reactions to Health Canada. Imagine: In previous years, the coroner's office, which investigates fatalities, had not bothered to report any of the suspected adverse drug reactions that they came across to Health Canada.

In 2006, we discovered that significant medical files had been omitted from those warranted by the coroner's office. I think it's something like 586 pages of files, according to the coroners. Seventeen abnormal EKGs confirmed that our daughter had an electrical abnormality in her heart and that such a defect would have made the prescribed lithium contraindicated and even more deadly to Martha.

I'm here today because I am concerned that the coroner's office calls a death such as Martha's "natural" and that every death such as Martha's is called "natural" in this province. This definition is a twisted version of the internationally accepted definition of a natural death, but this has been used in Ontario for some time. It doesn't help the victim, their families and it doesn't help prevent this from happening to others.

The accepted international definition of a natural death is one caused by a naturally occurring disease process. This may include the fact that the failure of medical intervention did not prevent the death, but it excludes a death caused by active human intervention. But in Ontario we use a different version. In Ontario, if you die as a result of medical treatment, even medical treatment that's known to be inappropriate or the wrong treatment or the wrong drug, your death will be identified as natural.

In Martha's case, by the coroner determining at the outset that this was a non-suspicious death, many things failed to happen. The police stopped investigating immediately. No one who had treated our daughter was questioned. Martha's medical files were not obtained, even though the clinic where she was treated was just two blocks from our home. There was no cardiac autopsy, even though this was a young woman who had died a sudden, unexpected death. Although we requested access to her heart for more than a year, it was destroyed as soon as the initial autopsy was completed. In 2009, we finally received a final report to close this death investigation, six and a half years after it started.

In 2009, the coroner's office apologized for taking so long, but they also told us that they would not take any further action towards those who tried to cover this up because so much time had passed. As a family, you can imagine how we feel knowing that this occurred, knowing that it could happen to others and knowing that our system took six and a half years to deal with it instead of trying to prevent it from happening to others.

In 2009, the coroner's office sent a report which said that if this death occurred today, we would be doing things quite differently. If it occurred today, they would have asked about family cardiac problems. We wrote them back and said in 2002, within a week of this death, we sent them letters stating that there were family cardiac problems. We sent it to the local, to the regional and to the deputy chief coroner. In this case, we had to report this adverse drug reaction to Health Canada ourselves. We also, ourselves, contacted the hospital where Martha received treatment and we were shocked to learn that they had never been informed of this patient fatality. In this case, Martha's death, to this day, has been determined to be natural.

In 2009 we also learned that the deputy chief coroner, Dr. Cairns, who was charged with the follow-up investigation in this death, was too busy preparing for the Goudge inquiry for two years to finish his investigation. Here's a quote: "Unfortunately, as a result of my extensive involvement with the Goudge inquiry, I was not able to do the investigation before I retired in January 2008." Again, it seems to us that the system failed our daughter and the public.

In December 2008, there was a final review by the pediatric death review committee of this death. This review finally made significant recommendations. They recommended that all pediatric patients should receive cardiac testing before being given any psychotropic drug. They also recommended a study to see what type of cardiac review should occur for adult patients prior to prescribing psychotropic drugs. It's unfortunate that it took more than six years to make recommendations that are aimed to prevent similar events.

1450

When you look at the proposed amendments to the Coroners Act in Bill 115, you'll see the terms "natural death" or "natural causes" used six times. When you read this document, try replacing the word "natural" with

"iatrogenic," which means "caused by medical treatment," and then ask yourselves if this is how you want the law to be written. The legislation as it stands will exclude reporting of deaths caused by medical treatment. I can't tell you how many of those occur every year in Ontario, because we don't track them. It will prevent mandatory inquests in some cases, and it will create only a perception that the coroner's office has become more transparent.

My second concern is the portion of the legislation which removes the right of the minister to call an inquest. When you look at this clause in the legislation, on the surface it seems reasonable. But when you realize that for so many years, it just wasn't used, then you start to question. When you determine that the deputy minister advising the minister was the same Dr. Jim Young who was also the chief coroner at the time, you can understand why Dr. Young was never inclined to overrule himself and order an inquest. I would also suspect that if this conflict of interest had not occurred, perhaps some of the horrific stories uncovered in the Goudge inquiry may have been dealt with before in more public inquests.

I would urge you not to remove the right of the minister but, instead, to expect the minister to live up to that expectation and begin to use the power to call inquests. The cost of one inquest pales in comparison to the cost of human lives that may be saved from that one inquest. I would think that if an inquest had been called into our Martha's death, systemic changes would have been recommended much sooner than the six and a half years it took to have these recommendations made.

In this case, psychotropic drugs are the second most commonly prescribed drug in Canada, right after cardiac medication. Psychotropic drugs are most commonly prescribed to those over 75 years of age. I see that there may be some real room for improvement by implementing these recommendations.

I also bring my individual experience and knowledge to you today, along with my international and national experience with patient safety. Since we lost our daughter, I have become a champion of the WHO World Alliance for Patient Safety program. I'm also a board member of Patients for Patient Safety Canada. Both of these organizations support a document that's referred to as the London declaration. You can Google it. I meant to bring copies today but forgot. This declaration states: "We will not let the current culture of error and denial continue.... We will make the reduction of health care errors a basic human right that protects human life around the world."

I would ask that you amend Bill 115 to prevent medical deaths from being buried among those truly natural deaths, leave the power of ordering inquests with the minister and encourage that it be used when appropriate. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for that presentation, Ms. Murray. We started

at 2:35, so we have about six minutes, so three per party. We'll start with the Liberal Party. Mr. Levac.

Mr. Dave Levac: Ms. Murray, thank you so much for bringing your story to us. You had said earlier that you were concerned about public speaking. You did a fantastic job.

Ms. Maryann Murray: Thank you.

Mr. Dave Levac: I appreciate the story very much. It's pretty hard for a parent to have to present—I'm going through some of my own concerns. At the end of this journey, which actually never ends, you've indicated that there was ultimately acknowledgement of the concerns that you raised—if I'm getting this right—that there was an acknowledgement eventually with the study that the "natural" death was indeed not necessarily natural. So that conclusion did come your way?

Ms. Maryann Murray: No. Actually, they concluded that the drugs that were given under those conditions were contraindicated and could cause death, but they have determined that this death fits into their description of what is "natural"; that a death by medical treatment in Ontario continues to be natural to this day.

Mr. Dave Levac: Okay, thank you. With that and your reference to the London declaration, I'll have an effort made and undertake, as the parliamentary assistant, to ensure that the government and the minister receive the information that you're requesting and will respond to it.

The Chair (Mr. Lorenzo Berardinetti): We'll skip through Garfield and go to Mr. Kormos.

Mr. Peter Kormos: Thank you very much, Ms. Murray. We won't have a lot of time here, but I anticipate referring to your comments today extensively in my third reading debate participation.

One of the things Goudge didn't do was consider the institutional culture in which a guy like Dr. Smith could flourish. Smith didn't work alone. He had workmates beside him. He had crown attorneys presenting his evidence. He had judges hearing it. He had cops who loved it. Mr. Smith is a despicable person.

Ms. Murray, you describe a coroner's office that's arrogant, disdainful, disinterested and treats you as if you were a door-to-door peddler constituting a nuisance on the front doorstep.

Listen, folks, it was the PDRC, thank goodness, that did some very fundamental—this isn't Colombo on television; this isn't CSI. They did some very basic, fundamental investigations. There was a note in your daughter's medical file. So obviously whoever prescribed the—

Ms. Maryann Murray: Lithium.

Mr. Peter Kormos: —lithium blew it—big time. I hope she or he doesn't practise medicine anymore, but they probably do.

Ms. Maryann Murray: Oh, yes.

Mr. Peter Kormos: I think part of the link here is because it's a natural death.

I appreciate Mr. Levac's comments, but I think you've exposed a part of the problem that hasn't really been

addressed yet, and quite frankly that's the culture within that part of the Ministry of the Solicitor General that supervises, if you will, or to whom the coroner's office is accountable. The cultural disease extends into the Solicitor General's office. This type of behaviour—you're talking about, in this case, the coroner's office. People have got to have known this was the attitude, style and demeanour, just like people have got to have known that Smith was batting 1,000 when it came to child deaths. Those people have to be held accountable as well.

Ms. Maryann Murray: I would add to that that I had the privilege of speaking to Justice Goudge in the fall just after his report came out. He came to deliver a speech at Halifax 8, which is a national patient safety conference. I expressed to the judge that I didn't believe that Charles Smith might be the only physician that the coroner's office was covering up for.

Mr. Peter Kormos: Of course.

Ms. Maryann Murray: He agreed with me. He said, "I think you're right on the money."

Mr. Peter Kormos: Thank you kindly.

The Chair (Mr. Lorenzo Berardinetti): We'll move over to Mr. Dunlop for any questions.

Mr. Garfield Dunlop: I appreciate the words that you have made—I know that it's been very difficult. You said at the beginning you weren't used to public speaking, but I think you've done a remarkable job this afternoon. I applaud what you've come here to say. I know it's been a very difficult thing for you to do today. The information you've provided is very valuable to us and I appreciate it.

The Chair (Mr. Lorenzo Berardinetti): Thank you, again, for coming out today and making your presentation.

1500

ANNE MARSDEN

The Chair (Mr. Lorenzo Berardinetti): The next scheduled presentation is Anne Marsden, rights advocate for vulnerable Canadians. If you need a moment or two, that's fine. They're just taking away the projector.

Interruption.

The Chair (Mr. Lorenzo Berardinetti): It's all done? Thank you.

I want to wish you good afternoon and welcome to the committee.

Mrs. Anne Marsden: Thank you. My name is Anne Marsden, rights advocate for vulnerable Canadians. I think it's appropriate that my presentation follows the last one. We deal with exactly the same issue, a "natural death" definition when it's a death by medical treatment, but in my case it goes one step further. It's when a person with disabilities, whether it be a child or whether it be an elderly person like my mother, is being intentionally administered a drug that is known will cause their death and it's still held to be a natural death, and the offshoot of that, which is false returns to a process by a coroner when they claim such things as there was no overdose.

When the facts speak for themselves, all you have to do is be able to add and divide.

I begin with an excerpt from a public website from a colleague of the last presenter, Barbara Farlow. It's on the death of her daughter, Annie Farlow, who died before she reached three months of age. "The moral test of a government is how it treats those who are at the dawn of life, the children; those who are in the twilight of life, the aged; and those who are in the shadow of life, the sick and the needy, and the handicapped"—quote by Hubert Humphrey.

Then a couple of sentences from a letter posted by the Farlows with regard to the death of their daughter and addressed to the Honourable Rick Bartolucci re: a demand for accountability of the coroner's office regarding investigation of the death of a child with disabilities. She says, "Based on overwhelming evidence, and a refusal to provide explanation to the contrary, we must conclude that our daughter's death was directly attributed to the unauthorized administration of lethal quantities of narcotics ... Documents recently obtained through privacy legislation indicate that two withdrawals of lethal amounts of narcotics were signed out for Annie and medication records are suspiciously absent."

The very last medical administration record that would document whether little Annie was overdosed with lethal doses of narcotics was missing. As a person who was a quality assurance consultant at McMaster hospital, auditing files etc., if a medication administration record went missing, there would be no medical staff associated with it when I was assistant to the chief of staff.

The Campbell inquiry, the Goudge inquiry, Bill 115, the forensic laboratory, the appointment of chief coroners, deputy chief coroners, regional supervising coroners and much more, paid for out of the public purse, are for one purpose and one purpose only: Ontario community protection from preventable deaths.

The Campbell inquiry and the Goudge inquiry both show that the infrastructure put in place to protect the community from preventable deaths repeatedly fails in its objectives. Our government can put in all the expensive infrastructure to support community protection from preventable deaths they want to, but unless there is a willingness to face the issues that lead to repetitive, preventable deaths, absolutely nothing will be achieved, and the last presentation gives you a phenomenal indication of the number of iatrogenic deaths that are taking place because nobody will address the issues related to them.

Bill 115 removes the role of the Minister of Community Safety in adjudicating whether the five questions associated with a death have been truthfully answered and the need for an inquest jury to review the circumstances and thus contribute to community protection from preventable deaths.

Removing the role of the Minister of Community Safety is, at this stage of the game, simply a paper exercise, as the Minister of Community Safety, in our experience, has already removed himself from all the

roles set out for him in the Coroners Act with regard to deaths associated with medical treatment, intentional overdose or error.

Both the minister and the deputy minister have refused to meet with the family to explain why the minister is stalling in terms of his decision of inquest or no inquest for Eva Bourgoïn, or to review or chart with someone well qualified:

(1) The overwhelming evidence of grave concerns about the death investigation of Eva Bourgoïn, and the harm this brings to the public interest;

(2) The overwhelming evidence of forcible confinement in a hospital bed previous to her death, which Eva Bourgoïn did not need or want, by a hospital that had a shocking record in terms of ER wait times, which they attribute to their beds being full of patients like Eva;

(3) The overwhelming evidence that the forcible confinement provided an environment that was accepting of the administration of an overdose, contrary to the family physician's standing order of Lasix, that was known would cause dehydration, renal failure and, if not treated—which it wasn't, contrary to her living will, advance directions, whatever you want to call it—death, for one of the most vulnerable members of the Ontario community;

(4) The overwhelming evidence of a false return to the process by a deputy chief coroner of Ontario in terms of his position that there was no overdose, when 60 milligrams was the standing order of the family physician and 420 milligrams was what was ordered administered. It only stopped at 420 milligrams because Eva Bourgoïn was dead. Otherwise, it would have gone up and up until she was dead. I must tell you that the order was written for this overdose while they had the family physician's standing order in their hand. They had requested it from the long-term-care centre. It was faxed in. It was read before the order of overdose was written;

(5) The overwhelming evidence that the outcome of the death investigation was predetermined as natural before it began; and thus

(6) The overwhelming evidence that the minister, his associates, the judiciary, law enforcement agencies etc., who have freely committed to protect the community from preventable deaths, are simply not willing to face the issues surrounding preventable deaths in Ontario.

No one has forced any of these individuals to take on the role of speaking for the dead to protect the living and their duty to the families of Ontario that come out of these roles. People did force Eva Bourgoïn to stay in a hospital bed she didn't need or want and be overdosed with a drug that was known would kill her.

How can we, the families of Ontario, possibly believe there's a willingness to face the issues raised by the deaths of vulnerable members of our community like Eva Bourgoïn—elderly, disabled—and that amendment of the Coroners Act will make any difference to this lack of willingness when, after her body had been delivered to the forensic laboratory for autopsy, rather than just the local coroner, because of the concern that this death was

a homicide, the family was told that the death was predetermined as natural before autopsy began?

I can almost hear you asking yourselves, "How can she know it was predetermined? Surely that is just speculation on Mrs. Marsden's behalf." Well, judge for yourself.

The autopsy report of Dr. Pollanen, the chief pathologist of Ontario, sets out that there was no injury to the body of Eva Bourgoïn. I asked the regional supervising coroner to explain why fractures known to exist in Mrs. Bourgoïn's body when she went to the forensic lab were not noted in the autopsy report. The answer that came back was, "We do not X-ray bodies in a natural-death investigation." Yes, you heard me right: The regional supervising coroner advised me, "We do not X-ray bodies in a natural-death investigation."

Obviously, my mother's death was predetermined as natural and all the coroner's resources, all the resources that we put into an infrastructure that's supposed to prevent death in the community, were set aside to ensure the medical community was protected from what I believe is against the law in Canada—it was for Latimer, anyway: "Thou shalt not kill," even if the person is disabled.

1510

In the case of the Annie Farlow death investigation, the medication administration record that would prove or disprove lethal doses of narcotics were administered on the day of the death went missing. In the case of the Eva Bourgoïn death investigation, the vitreous humour tests ordered by the chief pathologist of Ontario to bring answers to the cause of death, at a cost to the public purse, were hidden from the family. They were not provided to the family with the autopsy report and other toxicology results. It was not until the family asked the regional supervising coroner, in the presence of an OPP officer, on February 20, 2007—my mom died on April 9, 2006—why autopsy testing was not done to see the difference between symptoms of dehydration and renal failure related to the Lasix overdose, that the regional supervising coroner was forced to admit that Dr. Pollanen had ordered such tests. When asked why these test results, that were a crucial part of the death investigation, were not provided to the family, the answer was that it was not thought necessary.

It took several more months to get these vitreous humour tests, which confirmed the negative effect of the overdose increased from April 6 until Eva Bourgoïn's death. A review of material presented to the Ontario College of Nurses with regard to nursing issues associated with the death of Eva Bourgoïn shows that these vitreous humour tests were released to the college investigator in July 2006, after only one request, and some eight months before they were released to the family after repeated requests.

I agree that that's a freedom-of-information-and-privacy-commission issue, which we will be taking up, but can you believe a coroner's office that's supposed to give respect to families with regard to the death of their

loved ones issuing vitreous humour tests, which were proof that the intentional overdose had had a negative effect right until death, and giving it to the College of Nurses investigator with regard to the investigation of wrongdoing by nurses involved in the death, but not giving it to the family? That's beyond my comprehension; I don't know about yours.

The Campbell inquiry took a look at why public monies were not used to ensure that the preventable deaths of Bernardo's and his wife's victims did not occur. The coroner in charge of the death investigation for Tammy Homolka claimed, like the OCCO claim in the death of Eva Bourgoïn, that the death was natural, an asthma attack. The inquiry showed that the evidence was clearly available to the coroner during the death investigation that this was a homicide with sexual overtones. Because there was not a willingness of this coroner to follow the evidence down the path it led, which is what Dr. Pollanen said at the Goudge inquiry all coroners should do, the Ontario community law enforcement resources and much, much more were not protected from the preventable death that Tammy Homolka suffered, and we saw more young girls unnecessarily meet their death as a result of not being willing to acknowledge that Tammy died at the hands of a sister and brother-in-law from a homicide with sexual overtones that arose out of Paul Bernardo's abhorrent and seemingly unabatable quest for sexual highs that came from situations forbidden by the laws of Canada and Ontario.

Not only did this affect those who died unnecessarily, including Leslie Mahaffy, from my community; it also affected the public purse in a major way to deal with the results of the unwillingness to follow the evidence to an appropriate conclusion in terms of cause of death. How much better could those funds have been used today, in this economic crisis, to feed families who are losing their jobs, to pay their mortgage? Instead, it was used in a way that allowed young girls to be killed at the hands of Paul Bernardo and Karla Homolka. You just have to add up the costs of the inquiry, the costs of the court procedures, the cost, the cost, the cost, and I bet you it would be very useful today to help people feed their children and pay their mortgages.

The old Coroners Act allowed reporting of these findings to the local police force, but this did not occur. So what difference will it make adding an appropriate "appropriate persons" to amendment 4(1)(d)? It won't. It won't make any difference because, do you know what? There has to be a willingness to face the issues. If clause 4(1)(d) was ignored before Bill 115, what difference do you think this amendment in terms of the addition to 4(1)(d) of "appropriate persons" is going to make in protecting members of the community from preventable deaths? None that I can see.

It's the same as the amendment to set up an oversight committee. We have an oversight process in place at this time. It could be effective if there were a willingness for it to be so. The process presently is the Chief Coroner of Ontario, the Ministry of Community Safety, and peer

review organizations such as the College of Physicians and Surgeons of Ontario and the College of Nurses of Ontario. They don't work because there's not a willingness for them to work. They're all protecting the medical community from iatrogenic deaths and homicides from intentional overdoses of narcotics that are known will kill their patients in certain circumstances. For instance, morphine, if you have a respiratory infection, will take you very quickly.

For example, in the investigating coroner for Mrs. Bourgoïn, the coroner set out in his report that there was no overdose of Mrs. Bourgoïn. Now, one does not have to have math skills beyond grade 4, which I'm sure is a minimum requirement of someone who was an ER physician and ended up as deputy chief coroner of Ontario, to know that 420 milligrams of Lasix ordered, divided by one 60-milligram dose, which was the family physician's standing order, proven to be a safe and very effective treatment for each incident of CHF of Mrs. Bourgoïn, equals seven. And it only stopped at seven because Mrs. Bourgoïn died and didn't need any more overdose to bring about her death.

Section 138 of the Criminal Code states that for a coroner to make a false return to the process is a criminal offence. It's a very simple example of a false return to the process.

We've tried to deal with this issue, false return to the process. We've contacted Chief Julian Fantino's office, and they said that jurisdiction lay with regional police regardless of the evidence that the false return to the process occurred while Dr. Cairns undertook his duty as deputy chief coroner of Ontario in Toronto, and Halton regional police, who refused to respond to whether or not they have jurisdiction in this matter.

Forgive me. I'm just a plain, ordinary person who likes to advocate for the rights of vulnerable Canadians. I thought the Criminal Code of Canada applied to all of us. It doesn't matter whether I'm a ballet dancer, a doctor, a politician or what. And if I'm a coroner, if I make a false return to a process, it has to be investigated, one would think, and if there's reasonable and probable means to lay a charge, the charge should be laid. There is nothing in the Coroners Act that refers to false returns to the process—nothing. Our overseeing process, which is a health professional peer review process, encourages those who make false returns to just carry on. The coroner who cost us how many hundreds of thousands, probably millions, of dollars when he said Tammy Homolka's death was natural: He made a false return to a process. He ignored the evidence, the burn marks on her face. He didn't use the rape crisis kit that was right there.

Earlier on I said there was an unwillingness to deal with the issues related to preventable deaths. In the case of Mrs. Bourgoïn, the issue is the intentional overdosing and thus dehydration and renal failure of an elderly, disabled person until she was dead. Terri Schiavo suffered the same fate when her feeding tube was disconnected on the order of the court. Disconnection of that feeding tube and the horrible death Terri suffered as

a result of dehydration shocked a significant proportion of our community, and indeed the world. We in Ontario, however, appear to be governed by those who do not seem to be at all concerned with regard to the overwhelming evidence that a member of the Burlington community, who went to the ER simply to get an X-ray, was unnecessarily admitted and prevented from returning to her long-term-care bed, where she had safely and effectively been treated for radiologically diagnosed CHF and pneumonia on several previous occasions, and suffered an equally horrible and preventable death that could well be the fate of other elderly disabled residents of Ontario because the OCCO and the supervising minister refuse to acknowledge the indisputable evidence that an inquest jury could bring in a homicide verdict, the same as they did in the death of the daughter of Sharon Shore, the author of *No Moral Conscience*. If you haven't read that book, you should.

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I would urge this committee to ask the minister to stop stalling and face the issues—in a public forum where the facts can be heard by the members of the community at risk of a similar death—regarding preventable deaths associated with intentional overdosing of our elderly disabled.

I daren't go down to my emergency room, and neither do those who know about the circumstances of my mom's death who can be classified as over 60 with disabilities, etc. There have been too many circumstances that we know of, besides my mom's death, in our community, whether they've been disabled, given too much morphine or whatever when they didn't even need morphine.

Hold an inquest or a public inquiry into the death of Eva Bourgoïn. Please, Mr. Minister, we're asking you that. The death investigation process too—a public inquiry into a death investigation. Deputy chief coroners, associate deputy chief coroners, chief coroners, etc., claim this was a natural death when the evidence is overwhelming that it wasn't. We need to answer those questions about why a coroner is continuing to make false returns to the process and claiming natural deaths—no overdose. That will obviously lead to more preventable deaths of the same kind when their duty and their job is to speak for the dead, to protect the living from the same kind of death.

This is not one of the issues which I would ever have believed I would need to face in our Ontario—never. Never in my wildest nightmare.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mrs. Marsden, for that presentation. We have about nine minutes left, so we'll divide it between the three parties. We started last time with the Liberal Party. This time, we'll do the rotation starting with the Conservative Party, Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much, Mrs. Marsden. I appreciate your comments today. I noted at the very beginning of your presentation you talked about the Farlows, who have been to see us on a number of—

Mr. David Zimmer: Sorry, I didn't hear that.

Mr. Garfield Dunlop: Tim and Barb Farlow. They were actually in the House the day I did my leadoff on Bill 115. I haven't heard from them whether or not they'd be actually making a presentation at this. I know they're not on the agenda today, but I'm wondering if they're one of the groups that are—

Mrs. Anne Marsden: I haven't heard from Barbara that she is making a presentation. She knew I was going to be here today.

Mr. Garfield Dunlop: Okay. I don't really have any questions for you because you've covered a lot of territory, but I did want to point out that I've personally dealt with them for almost a year on this particular file. Quite frankly, we felt when Bill 115 was introduced, it was at least an opportunity to explain what they had been through because no one had listened to them before. I was hoping they could make a presentation here so that any recommendation or amendments they would have, we could utilize in any recommendations going forward with the bill.

That's really all I had to say. I just wanted to pass it on to you.

Mrs. Anne Marsden: Barbara and I are your constituents. I come on the same issue, but the vulnerability gap is a three-month-old baby and an 86-year-old woman. It's the same issue. It's people with disabilities being intentionally overdosed with narcotics or medications that their medical history has proved will lead to their death.

Mr. Garfield Dunlop: Okay. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Mr. Kormos?

Mr. Peter Kormos: Thank you, ma'am. You've raised some interesting issues, as did Ms. Murray, and I'm going to ask research to help us in this regard. I suppose I could ask our next presenters, but I'd be imposing on them because this isn't what they came here to answer. This whole issue of iatrogenic death—this is the first time I've encountered the phrase—caused by medical treatment: Now, we all understand, and doctors know this more, that there are certain treatment regimens that are risky, that have in them an inherent element of risk that the patient is advised of. You either say, "No thank you," or you tell the doctor, "Let 'er rip." It seems to me that this may be what iatrogenic death is. We're hearing from Ms. Murray and from you not phenomena of iatrogenic death; we're hearing allegations of malpractice. So these aren't deaths that are caused because the cure or the remedy or the procedure has inherent risk. Every time people are put unconscious on the operating table, they're told that there's a certain level of risk. Maybe Ms. Drent could help us with a broader description of iatrogenic death to find out if I'm right or wrong.

I agree with you about the proposition around section 22. I'm told it has been used once. Andrea Horwath has been advocating for Jared's inquest down in Hamilton, a stand-alone inquest. We believe this section should be

there. Someday we might just find someone other than a gutless politician who's prepared to use it.

Look, the problem is that cabinet ministers, especially, increasingly hide behind their bureaucrats, their do-nothing people, like the three monkeys: hear no evil, see no evil, speak no evil. One of the first lines deputy ministers give to newly appointed ministers is, "You let us handle this, and you'll be fine." Because, of course, to be a proactive minister puts you at risk. Premier's offices are nervous about that sort of stuff.

I tell you, like the Tories, we will be arguing strongly and voting in committee in such a way as to try to preserve section 22, for the discretion of the coroner. That's a critical, critical piece, especially when we're hearing so much about the arrogance of the coroners' offices. They're elitist, arrogant, aloof—very disturbing stuff. And I'm sure not all are.

Mrs. Anne Marsden: Obviously, not all are. There are some very wonderful people working in our coroner system.

I would just like to comment that the difference between iatrogenic death and the deaths the Farlows and the Marsdens are dealing with are two entirely different things. With the deaths of Annie Farlow and Eva Bourgoïn, the evidence is profound that they were intentionally overdosed. It wasn't a medical error. They were intentionally overdosed to bring about their death.

Mr. Peter Kormos: You're arguing homicide?

Mrs. Anne Marsden: Yes, definitely homicide. Criminal intent.

Mr. Peter Kormos: Okay, I hear you. Even I'm not about to go there at this point. I hear you.

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to the Liberal Party. Mr. Levac.

Mr. Dave Levac: Mrs. Marsden, again, thank you for your presentation. I am aware of your advocacy under many circumstances.

A quick clarification question: Is it an organization that you represent, or is it your individual self, for child advocacy, international advocacy? I just don't happen to know that. Is it an organization that you've formed?

Mrs. Anne Marsden: I did have an organization, but on March 5, 2008, I became a grandparent for the first time. We got our little girl—I have three boys—and I retired.

However, because of the nature of my involvement as estate trustee and things like that, I've continued with my role as rights advocate for vulnerable Canadians on my own, using the circumstances and the information that's put into my hand from my own family. We don't know when any one of us is going to become vulnerable. Someday you people could be very grateful for the advocacy that I'm doing at this table. Can you imagine being an elderly disabled person going into a hospital when you've got a home and you didn't need to go, and you don't know what pills they're giving you, and the next thing, you don't know anything more?

Mr. Dave Levac: Yes, and thanks for that clarification. The day is today; I appreciate the advocacy

that you're doing presently, and I respect the story that you're bringing to our attention. You might not be surprised, but I don't necessarily subscribe to the characterization that Mr. Kormos presented about ministers, the staff, the coroner's office. I tend to be a little bit more objective when I take a look at circumstances. I think you presented yourself in a way that allows me to say to you that I would do this as an undertaking, that your story and your concerns raised would be presented to the minister. One of the things—

1530

Mrs. Anne Marsden: They are in the minister's office.

Mr. Dave Levac: And I'll redo it.

Mrs. Anne Marsden: Thank you, sir.

Mr. Dave Levac: Because I believe that when we're here for those purposes, we're here to listen and we're here to try to make sure that all people's voices are heard.

Mrs. Anne Marsden: Thank you.

Mr. Dave Levac: The concern that has been expressed in your case goes well beyond the scope of the changes that are being proposed in this legislation, in that within this legislation—I heard you clearly—you're not convinced that any of these changes are going to make any impact. But is there any part of the bill that you've scanned that would lead us toward a better coroner's office?

Mrs. Anne Marsden: I hate to say this—I don't want to sound negative—but the answer is no, because there has to be willingness to look at the issues around preventable deaths, and not have, "Oh, if it's a medical treatment, it's a natural death. If it happened in a health care institution, it's natural." That's not right.

We have renegade physicians who get their highs, or whatever—we know that's happened in history. In Britain, how many patients did a family physician kill before he was finally caught out, prosecuted and jailed for life?

Mr. Dave Levac: I appreciate the sentiment. Thank you, Mr. Chairman.

The Chair (Mr. Lorenzo Berardinetti): Once again, thank you, Mrs. Marsden, for your presentation.

Mrs. Anne Marsden: Thank you.

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

The Chair (Mr. Lorenzo Berardinetti): We're right on time for our next presentation—3:30—the College of Physicians and Surgeons of Ontario.

Mr. Peter Kormos: Chair, on a point of order: Perhaps as these people are seating themselves, I can, if not correct, at least clarify the record. I apologize if there was any misunderstanding. I didn't say "heartless politicians"; I said "gutless politicians."

The Chair (Mr. Lorenzo Berardinetti): Good afternoon, and welcome. I think you understand that we basically have half an hour for you to either present, or a combination of your presentation, and any leftover time

will be divided between the three parties, in terms of asking any pertinent questions.

I would simply ask, though, before you speak, if you'd introduce yourselves, if you are going to be speaking, for the sake of our record keeper here, our Hansard.

Dr. Ray Koka: Good afternoon. Thank you for this opportunity to appear before the committee. I am Ray Koka, the president of the College of Physicians and Surgeons of Ontario. I have practised psychiatry for more than 20 years.

With me today are Dr. Rocco Gerace, registrar of the college; Carolyn Silver, legal counsel; Amy Block, also counsel; and Norm Tulsiani, also from the college, public relations.

We are pleased to attend today to present on behalf of the college on Bill 115, the Coroners Amendment Act.

The College of Physicians and Surgeons of Ontario agrees with the principles behind the bill and supports the legislation. However, we believe that the bill could be improved in a few discrete areas, and I will outline these shortly.

As Minister Bartolucci said when he introduced the bill, the purpose of the legislation is to enhance oversight, accountability and transparency in Ontario's coroner system, consistent with the Goudge report.

When releasing his report, Commissioner Goudge said that it is "vital that major changes be made in the institutional arrangements within which forensic pathology is practised in Ontario. This is necessary if there are to be proper structures for oversight and accountability." We agree.

Commissioner Goudge recognized that the tragic story of pediatric forensic pathology in Ontario was not just a story of the failings of one pathologist; it was equally the story of failed oversight. As Commissioner Goudge noted, the oversight and accountability mechanisms that existed were not only inadequate to the task but were also inadequately employed.

As you know, enhanced communication between the coroner's office and the college to ensure adequate regulatory oversight of coroners and pathologists was among the very important recommendations of the Goudge report. The college believes that enhanced communication is an important part of transparency and that timely information sharing amongst the key players in the system will promote accountability and reduce the likelihood of system failure.

Bill 115 strengthens oversight of the coroner's office. The proposed legislation creates a new body, the death investigation oversight council. The new oversight council would oversee the work of the chief coroner and the chief forensic pathologist and hold them accountable for the quality of death investigations in Ontario.

Bill 115 also creates a new complaints committee. As we understand it, the committee will generally refer complaints about coroners to the chief coroner and complaints about pathologists to the chief forensic pathologist. It will deal with complaints about the chief coroner and the chief forensic pathologist and will review

complaints handled by them where the complainant is not satisfied with the outcome. The complaints committee will also refer complaints about coroners and pathologists to the College of Physicians and Surgeons of Ontario where it is of the opinion that it is more appropriately dealt with in that manner. The college supports this new oversight structure. The oversight council and the complaints committee go a considerable distance in advancing Commissioner Goudge's recommendations.

However, we believe that other provisions in the legislation need to go further in order to promote communication, transparency and, ultimately, effective oversight. In particular, we are asking the committee to amend Bill 115 in two areas. Both amendments are designed to enhance communication between the college and the coroner's office. The first proposed amendment would ensure that legal confidentiality requirements do not unduly inhibit information sharing between the coroner's office and the college. The second proposed amendment would require the coroner's office to notify the college where it has reasonable grounds to believe that a coroner, pathologist or any other member of the college acting under powers or duties under section 28 has committed an act of professional misconduct, is incompetent or is incapacitated.

First amendment: disclosure permissive. The first amendment relates to the general duty to maintain confidentiality that is set out in proposed subsection 8.3(1). This provision requires every member and employee of the oversight council and of the complaints committee to keep confidential all information that comes to his or her knowledge in the course of performing his or her duties. A narrow exception is outlined in subsection 8.3(2) and permits disclosure only for the purposes of administration of the Coroners Act. We're concerned that the broad requirement for members and employees of the oversight council and complaints committee of the coroner's office to maintain confidentiality may unintentionally inhibit the sharing of important information between the coroner's office and the college.

We are concerned that there may be circumstances where disclosure required for the administration of the Regulated Health Professions Act would not fall within the exception in subsection 8.3(2). In such circumstances, the oversight council and complaints committee may be prohibited from sharing potentially vital information with the college. The inability to disclose important information could be contrary to the public interest and lead to the type of outcome that Bill 115 and the Goudge report were intended to prevent.

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To ensure that the coroner's office is able to share such information with the college, we recommend that the legislation be amended. We have attached specific wording of the amendment to the proposed subsection 8.3(2) to our presentation which we believe would remedy this shortcoming of the legislation.

In simple terms, our proposed amendment would permit disclosure for the purpose of administration of both the Coroners Act and the Regulated Health Professions Act. The college is under a duty of confidentiality under the Regulated Health Professions Act. One of the exceptions permitting disclosure is "as may be required for the administration of the ... Coroners Act." Our proposed amendment to Bill 115 mirrors this.

The second amendment: positive obligation to disclose. Our second amendment relates to the positive obligation to share information between the chief coroner, the chief forensic pathologist and the college. We are concerned that there is nothing in the legislation that imposes a positive obligation on the coroner's office to report to the college when there are reasonable grounds to believe that a coroner, pathologist or any other member of the College of Physicians and Surgeons of Ontario, acting under powers or duties under section 28, has committed an act of professional misconduct, is incompetent or incapacitated.

Disclosure to the college in these circumstances should not only be permissible but, in the college's view and in the spirit of Commissioner Goudge's findings, disclosure should be required. There should be a positive obligation on both the college and the coroner's office to disclose information to each other in these circumstances.

As the legislation is presently drafted, there is a positive obligation on the college to disclose information to the coroner's office. Subsection 3(3) of the Coroners Act requires the college to "forthwith notify the chief coroner where the licence of a coroner for the practice of medicine is revoked, suspended or cancelled." Bill 115 will impose the same reporting obligation on the college for pathologists. However, there is no positive obligation on the chief coroner, the chief forensic pathologist or the complaints committee to disclose information to the college.

Accordingly, the college recommends that Bill 115 be amended to impose a requirement on the coroner's office to notify the college when the chief coroner, the chief forensic pathologist or the complaints committee have reasonable grounds to believe that a coroner, pathologist or any other member of the College of Physicians and Surgeons of Ontario, acting under powers or duties under section 28, has committed an act of professional misconduct, is incompetent or is incapacitated.

Under our proposed amendment, the coroner's office would also have a duty to notify the college when the duties of a coroner, pathologist or any other member of the college, acting under powers or duties under section 28, are restricted, or when he or she is subject to supervision or has been terminated as a result of concerns regarding his or her clinical or professional activities or conduct; or when he or she resigns in the course of an investigation into his or her clinical or professional activities or conduct.

Under our proposal, the college would have a mirror duty to notify the coroner's office when it had reasonable grounds to believe that a coroner, pathologist or any

other member of the college, acting under powers or duties under section 28, had committed an act of professional misconduct, was incompetent or incapacitated, or had resigned in the course of the investigation into his or her clinical or professional activities or conduct.

We believe the college's proposed amendments are in the public interest and are consistent with the purpose of Bill 115 and the Goudge report.

So thank you for the opportunity to present to the committee. We'll be pleased to answer any questions you may have, Mr. Chair and members, and our registrar and the legal counsels will be assisting me in that.

Thank you.

The Acting Chair (Mr. Lou Rinaldi): Thank you very much. There are about 15 minutes left, so if we divide, five minutes per party, starting with Mr. Kormos.

Mr. Peter Kormos: Thank you kindly, Doctor. I think I understand what you're proposing here, and it seems eminently rational if we're going to have this relationship between the college and the oversight council, among other things.

Counsel—it's up to you, but sometimes you need a psychiatrist; sometimes you need a lawyer. I think this time I need the lawyer. Your 8.3(2) proposal: Is that designed to facilitate compliance with the two new sections?

Ms. Amy Block: Yes, it would achieve that, but it also, in and of itself, makes disclosure permissible in a circumstance where 8.3(1) might be interpreted to suggest that disclosure isn't allowed at all.

Mr. Peter Kormos: And I think it does. It's very, very narrow. It says that they shall not, right? The existing 8.3(1): "shall keep confidential."

Ms. Amy Block: Yes. So unless disclosure to the college is for the purpose of the Coroners Act—there's a concern that there may be a situation where disclosure is required for the purpose of the Regulated Health Professions Act, and it's not covered by that—

Mr. Peter Kormos: Yes. Give us a "for example." I want to understand that.

Dr. Rocco Gerace: Maybe I could give you an example where things have worked the other way. Prior to amendments to the Regulated Health Professions Act, there were times when the coroner's office sought information from the college. Section 36 of the RHPA precluded us sharing information because the Coroners Act was not included. So we were in a position where we had information that would be of assistance to the coroner but were not entitled to share that information. We are projecting that the reverse may occur, that there may be a situation in the coroner's office that the coroner feels compelled to share with us but will be precluded in law from doing so.

Mr. Peter Kormos: I'm not going to spend any more time belabouring this. What I think I might do, Chair, though, is just move a motion, once we're finished here—we have a privacy commissioner in the province—that we seek the counsel of the privacy commissioner, her comments on this proposal, for the obvious reasons.

But I understand the rationale, and other than any higher-level concerns by Ann Cavoukian with the privacy issues, I think it's an interesting proposal. The parliamentary assistant to the Solicitor General might reflect on it. He's a powerful person in that office, and I'm sure that if he was persuaded today that this was an appropriate amendment, he could come pretty darn close to making it happen. Thank you, folks.

The Chair (Mr. Lorenzo Berardinetti): We move to the Liberal Party.

Mr. Dave Levac: Gosh, I didn't know I had that much power, Peter.

Mr. Peter Kormos: You do.

Mr. Dave Levac: Thanks for educating me. I'll take you up on that.

Is it my understanding from this delivery today that you are already in conversation with the coroner and discussing the potential of having this amendment fit into the act?

Dr. Rocco Gerace: That's correct.

Mr. Dave Levac: And that while that has been brought up, what Mr. Kormos is concerned about, and I take him for his concern regarding the privacy, that during that discussion, along with the ministry—discussions would be held, and now I'm putting it on the record to assure Mr. Kormos we may not need to take that step if we're assured that the privacy commissioner and the privacy issues are investigated into this amendment that might appear in a similar fashion within the bill during our clause-by-clause.

Dr. Rocco Gerace: During our deliberations with the coroner, we have not talked about the privacy commissioner; that has not entered it. I would ask legal counsel if they are concerned about it, but certainly none of us would want to do anything that would contravene privacy legislation.

Mr. Dave Levac: In respect of what Mr. Kormos is asking, then, I would assume that if any amendment were to be agreed upon by the coroner's office and the college, the ministry would be engaging in the rest of the story, which would be to assume that—and I used a word that I know would alert the member opposite quite clearly when I said "assume." I give you my undertaking that we will deal with the privacy commissioner to ensure that it's not breached in any way.

Having said that, thank you very much for the work that you've done and that you do. Thank you for hearing the deputations. I know some things have been said that call into question some of the colleagues that you have, and I believe your working together with the coroner's office very much publicly says that it's time for us to understand what's happening within some of the issues that have been spoken of today, Dr. Smith etc, taking steps toward improving accountability and transparency. Thank you for doing that.

Mr. Peter Kormos: I've got a feeling Mr. Levac may just have the opportunity to demonstrate how powerful he really is.

The Chair (Mr. Lorenzo Berardinetti): Mr. Dunlop, did you have any questions?

Mr. Garfield Dunlop: No.

The Chair (Mr. Lorenzo Berardinetti): No questions? Okay. Thank you.

So that completes everything. Thank you very much for coming out today. Thank you for your presentation,

and for your paper as well. That completes the list of scheduled deputations for today.

I'd just ask if the members of the subcommittee could stay behind. We'll adjourn the formal part of the meeting for today and just have a brief subcommittee meeting.

The committee adjourned at 1552.

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 26 March 2009

Jeudi 26 mars 2009

The committee met at 0901 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Lorenzo Berardinetti): Good morning, everybody, and welcome to the Standing Committee on Justice Policy. The first item on the agenda is the subcommittee report dated March 12, 2009. Mr. Levac.

Mr. Dave Levac: Thank you, Mr. Chairman. I will put this on the record for the committee. It's a summary of decisions made by the subcommittee on committee business.

Your subcommittee on committee business met on Thursday, March 12, 2009, to further consider the method of proceeding on Bill 115, An Act to amend the Coroners Act, and recommends the following:

(1) That groups and individuals who responded to the committee's advertisement be scheduled to appear on Thursday morning, March 26, 2009, and on Thursday afternoon, April 2, 2009.

(2) That groups and individuals be offered 20 minutes in which to make a presentation.

(3) That the committee hold one day of clause-by-clause consideration on Thursday afternoon, April 9, 2009.

(4) That legislative research prepare a summary of all submissions heard and written submissions received.

(5) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

So submitted.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Is there any discussion? Motion to adopt?

Interjection: Agreed.

The Chair (Mr. Lorenzo Berardinetti): Thank you.

CORONERS AMENDMENT ACT, 2009

LOI DE 2009 MODIFIANT
LA LOI SUR LES CORONERS

Consideration of Bill 115, An Act to amend the Coroners Act / Projet de loi 115, Loi modifiant la Loi sur les coroners.

DRUG SAFETY CANADA

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our first deputation for the morning, Drug Safety Canada, Terence Young and Neil Carlin. Could you please sit up here? We've allocated 20 minutes for each presentation. Any time you don't use in your presentation, if there is time left over, will be shared between the three parties in asking any questions they may have. So you have up to 20 minutes. Yes?

Mr. Peter Kormos: Chair, if I may, you're too young to know this, but Terence Young was a very effective member of this assembly.

Mr. David Zimmer: Sorry, I can't hear you.

Mr. Peter Kormos: Mr. Young was a very effective—you're not too young to know it, but you may not have been here. Terence Young was a very effective member of this Legislative Assembly for a number of years.

Mr. Garfield Dunlop: Back in the days when they didn't leak the budget announcements.

Interjections.

The Chair (Mr. Lorenzo Berardinetti): Mr. Young, welcome back.

Mr. Terence Young: Thank you.

The Chair (Mr. Lorenzo Berardinetti): You know how this is going to operate, in terms of the presentation and the time allocation. Good morning and welcome to all of you. Please proceed.

Mr. Terence Young: Thank you. We thank the committee for the opportunity to present to you today. My name is Terence Young. I'm the founder and chair of Drug Safety Canada and author of the book *Death by Prescription*, which will be released on April 14, 2009.

We certainly support amending the Coroners Act. Three families represented here have been profoundly affected by deficiencies in the current act that are not addressed in the amendments. Each of us has lost a child, in each case a daughter, to an adverse drug reaction caused by a prescription drug taken as prescribed.

In March 2000, my daughter Vanessa fell dead in front of me. Her heart stopped after taking the prescription drug Prepsid for bloating. She was otherwise very healthy, with no family history of heart arrhythmia. Prepsid was known to cause heart arrhythmia, and eight infants had died during clinical trials. At the time, officially 80 people had died from heart arrhythmia while

on Prepulsid in the US, yet four doctors gave us absolutely no warning about the risks.

The fourth leading cause of death in Canada today is prescription drugs taken as prescribed in hospital, estimated at 10,000. As many as another 10,000 deaths likely occur outside hospitals due to prescribing errors, overdoses or patients taking the wrong drug. As many as one in four unplanned visits to our hospitals are related to prescription drugs. Serious injuries number in the hundreds of thousands.

How can this be? A series of critical loopholes in the Coroners Act help create a curtain of silence, protecting doctors and pharmaceutical companies from the consequences of giving patients harmful drugs, and betray the coroner's promise: "We speak for the dead to protect the living."

The first loophole is the coroners in choosing which deaths they will investigate. In 2000, I was warned it would be very difficult to get an inquest into Vanessa's death. Very few inquests are held under such circumstances, yet as a former MPP, frankly, I pushed my former caucus colleagues and I succeeded. I do not believe anyone without such personal contacts and connections would have been able to do so. The jury later made 59 useful recommendations to improve the system.

On the other hand, you've heard from the articulate and resolved mother of Martha Murray, Maryann, who sits beside me today. She worked for six years to obtain an inquest into Martha's death. It was delayed and put off repeatedly, unchallenged by elected officials until the coroner's office coldly terminated her appeals.

Beside me is Neil Carlin, whose daughter Sara died in May 2007 while withdrawing from the antidepressant Paxil. He conducted hundreds of hours of research and wrote a superb 80-page report. He sent that report, along with written pleas for an inquest, to the coroner and the regional supervising coroner, knowing it was the only way to expose the truth about his daughter's death. He then did the same with his member of provincial Parliament and the Solicitor General. Then, only after sacrificing his family's privacy in going to the media did he hear in December 2008 that an inquest would be held into Sara's death.

For Neil and me, our democratic right to appeal to our elected officials was the only way we could get justice. Without political influence, it would simply not have happened. Yet I stood beside Maryann Murray in the lobby of this assembly upstairs when the former Solicitor General, Monte Kwinter, told her he did not have the power to order an inquest. "Yes, you do," she politely corrected him, "in section 22 of the Coroners Act," the section that is about to be removed. Minister Kwinter chose not to exercise that power, and what happened? The coroner's office, after years, ended Maryann's quest for justice by destroying Martha's heart.

Recommendation number one: We recommend that the amended Coroners Act maintain its democratic roots and keep the ultimate power to order an inquest in the hands of our elected officials by way of a minister of the crown.

Loophole number two: The Ontario Coroners Act prescribes in practice that deaths related to prescription drugs be categorized as "natural." It is critical to note that the vast majority of deaths caused by prescription drugs are contrary, to drug company mythology, not due to prescribing errors, overdoses or patients taking the wrong drug. Neither are they caused by some imaginary unknown allergy that was just discovered. There is nothing natural about a drug killing a patient. Most drug deaths are perfectly predictable and preventable—70%, in fact.

There is no organization in Canada that accurately tracks prescription drug deaths. Part of the reason is that the people who are responsible for prescribing the drugs, our doctors, do not report adverse drug reactions. Health Canada kept note of the 41 drugs that have been pulled off the market for killing and injuring patients since the 1960s, but incredibly did not keep any record of why.

How is it possible that a means of death that kills more Canadians than war, falls, drowning and vehicular accidents together is not even identified in the vast majority of cases? The simple truth is that prescription drug deaths are systematically covered up by those responsible in the pharmaceutical industry and the medical profession in a self-serving curtain of silence, maintained through wilful blindness.

How is that done? Our doctors report less than 1% of adverse drug reactions. Most doctors never report any. This allows the drug companies to print on the labels a tiny fraction of the true number of deaths, to mislead their colleagues. For example, six deaths related to a blockbuster drug taken by a million people would not raise the alarm. If it were 600, the drug would likely be pulled off the market.

Second, of the 1% of drug reactions that are reported, the big pharma companies go to every effort to officially blame those deaths on anything but their drug, often with a total lack of evidence. For example, they simply claim that the deceased patient had some previously unknown condition that chose that exact moment to reveal itself, initiating misplaced suspicion on the patient, or they say the patient is a "poor metabolizer"—there's nothing wrong with the drugs; it's only the patients.

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A third reason is the coroner's practice of categorizing prescription drug deaths as "natural." It is impossible to measure the impact this systematic miscategorization has had on the continued carnage prescription drugs wreak on our loved ones. By lowering the curtain of silence over these deaths, our doctors and coroners have paved the way for the pharmaceutical industry to continue corrupt marketing practices and keep risky drugs on the market, long after they've been proven harmful or should have been. This is how Vioxx was allowed to kill as many North Americans as the Vietnam War. Only by identifying drug deaths for what they are can we begin, as a society, to address ways to reduce these deaths.

Our second recommendation is that the committee amend the new bill to demand that coroners create a category for means of death that includes: "related to a medi-

cal treatment including a drug prescribed or otherwise recommended by a medical professional.”

Loophole number three: Coroners are not required to do toxicology tests on all patients who die unexpectedly to test for prescription drugs. It’s very hit-and-miss.

On May 6, 2007, in Oakville, just 10 blocks from our house, Neil and Rhonda Carlin’s daughter Sara died after withdrawing from the GlaxoSmithKline SSRI antidepressant Paxil, in regulatory circumstances very similar to Vanessa. Eight years later, and nothing had changed. Sara was given a drug that was known to cause suicide, especially in youth, where it showed, since 1989, an eight times greater risk of suicide over placebo.

Neither Sara nor her family were given any warning of the long list of dangerous adverse reactions Paxil could cause, including suicide, despite these adverse reactions being right in the official prescribing information. Sara was prescribed Paxil on off-label use, as she was under 18 years old. GlaxoSmithKline had settled out of court with the FDA for \$2.5 million regarding concealing information on the safety and efficacy of Paxil and suicide in youth, and were in the midst of a four-year criminal investigation in the UK for the same reason. Sara went home late one Saturday night, put on her makeup and hanged herself.

SSRI antidepressants have been involved in hundreds of suicides, homicides, murders and bizarre acts of violence every year worldwide. In his book *Let Them Eat Prozac*, world-famous, internationally respected expert Dr. David Healy says that 25,000 people worldwide have committed suicide related to Prozac over the years that would otherwise not have done so.

Both shooters in the Columbine massacre and in almost every school shooting we have been able to find—SSRIs were involved in the incidents. Over 2,600 of these stories are available at the website www.ssristories.com.

When a media story about a shooting or other act of violence without motive says the perpetrator was “treated for depression,” that almost always means that the shooter was taking SSRI antidepressants or withdrawing from them. These acts of violence—without motivation—have grown since the widespread use of these drugs has grown.

Recommendation three is that in every unexpected or suspicious death, coroners be required by the act to take blood samples and check what prescription, over-the-counter and so-called street drugs are in the deceased’s system, or death related to a disease where timing is suspect, with specific reference to known risks and associations such as acts of violence and SSRI antidepressants.

Loophole number four: A month after Vanessa died, the pharmacist at Joseph Brant Hospital in Burlington sent a report to Health Canada about seven out of nine patients in their cancer ward who died after being given Prepuisid when it was contraindicated. “Contraindicated” means you never, never mix these two, because the benefit will never outweigh the risk. It’s a very, very powerful word. All seven patients showed that they had

long QT or arrhythmia—the same way Vanessa died and 81 other patients after taking Prepuisid.

I pleaded with the regional coroner, Dr. Karen Acheson, to conduct a thorough investigation. About six months later, she published a two-paragraph report which said that there was no conclusive evidence Prepuisid had caused these deaths. Seven out of nine died the same way Vanessa did—that’s “no conclusive evidence.” How can that happen?

It’s outrageous, first, because, of nine patients, seven died, and the coroner didn’t think that was strange enough to continue investigating, and the drug was given when it was contraindicated. But it was possible because the doctors and the drug companies hide behind a clinical standard of proof to prove drug reactions that is ridiculously high, higher than any court in the world—cause and effect. Is there anyone here who doesn’t believe cigarettes cause lung cancer? I doubt it. Well, by cause and effect, cigarettes have never been proven to cause lung cancer.

The cause and effect is higher than our criminal standard “beyond a reasonable doubt.” To prove a drug killed a patient, you’d have to find a person of the same sex, age and condition, give them the drug, watch them collapse and almost die, withdraw the drug, and then give them the drug again and watch them collapse and almost die again. That’s how high the standard is, and that’s why the standard is ridiculously high. The standard that should be used in the Coroners Act for a drug death is association. It’s another clinical standard and it would help us prevent deaths. So we recommend that the amended act prescribe a reasonable standard of proof for coroners and their juries to prove an adverse drug reaction was the means of death: association.

A loophole in the amended act which we’d like to address calls for the coroner to bring the findings and recommendations of his or her investigation to the attention of the public at his or her discretion. If anything I’ve told you today surprises you—and I hope it has—I won’t have to build a case for shining a light on coroners’ findings related to prescription drugs. Publicity about the risks related to prescription drugs will help save lives and should never be optional. We recommend this section be amended to direct coroners to issue public statements to the media when they find that any death—any death—is associated with a prescription drug.

Our conclusion is that the coroner’s office has demonstrated over decades that it deems death due to prescription drugs to be perfectly natural. Coroners have been content to cover up both medical errors and harmful drugs, contributing to the fourth leading cause of death in Canada.

Please do not make these recommended changes optional by fixing them later in the regulations or leaving them up to the discretion of coroners. If you do, I don’t believe they’ll ever be made.

I’d like to finish with a quick quote from my book, *Death by Prescription*. I’m quoting Dennis T. Mangano, who is the founder, chief scientist and CEO of the

Ischemia Research and Education Foundation. This is from *Forbes* magazine. He said, "There is no incentive for companies to find problems with safety once a drug is approved. It is just downside risk.... We find out a drug is unsafe when the bodies accumulate."

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation. We have almost nine minutes available, so three per party. We'll start with the Liberal Party first.

Mr. Dave Levac: Are we back on rotation from previous times? We normally start with the opposition.

The Chair (Mr. Lorenzo Berardinetti): Did you want to go first, Garfield?

Mr. Garfield Dunlop: Thank you very much. Terence, first of all, let me congratulate you for being here this morning, and on your new career change as well, and on your book.

I know that for all three of you, it took a lot of courage to be here and to bring out the concerns you've had with this legislation. In listening to your presentation and now having an opportunity to read it, I think there are a number of amendments in there that make a lot of sense, that I think would be better left in the bill and not a regulatory change later on.

I think from our perspective as the opposition, when it comes to clause-by-clause, we'd like to work with your organization to help properly word the amendments on this legislation so we can get a healthy debate on the amendments. I'd ask you if you would have any comments on that: working with our caucus research in trying to develop those amendments.

Mr. Terence Young: We'd be pleased to work with your caucus or any caucus. We'd be pleased to work with anyone and share what is basically a front-line experience from families who have lived this, and help you write regulations or the act itself that will help make these changes.

Mr. Garfield Dunlop: When we first started to look at this legislation in first reading, it seemed that the only amendment people were concerned about was the one about the power of the minister to—we're removing that, and we thought that would be an automatic part of the bill to keep in place. Since these hearings have started, though—and this is our second day—we've had a number of fairly significant ideas come forward, and I'm hoping the government members and the government bureaucrats will listen to this, because it has been a long time coming and we want to make sure that we get it right this time.

Mr. Terence Young: The opportunity to fix it may not come again for years, so this is our plea: Do it right this time.

The Chair (Mr. Lorenzo Berardinetti): We'll move to the NDP. Mr. Kormos.

Mr. Peter Kormos: That's a full and competent critique of the bill.

I'd ask you to comment on two specific things. We were introduced last week to the word "iatrogenic." I'm still confused, notwithstanding the research that's been

done on that. As I understand it, there are certain treatments that carry with them an inherent risk. In other words, you're told, "This is the treatment, but be aware that the treatment may kill you rather than cure you." In surgery alone, there's inherent risk. The best example could be prostate cancer. We're learning that a 70-year-old man who's diagnosed with prostate cancer may well choose not to have surgery.

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Can you help me? Because iatrogenic can either mean that there's an inherent risk or that there's, in effect, malpractice; and I think they're two separate things. Remember, we talked about that last week. I'm still troubled by the one category.

The other one is—and this is not provincial, I suspect—I'm troubled by the glossy magazine and television advertising by pharmaceutical companies of mostly drugs that are related to comfort issues, whether it's emotional comfort, body comfort—

Mr. Terence Young: Conditions.

Mr. Peter Kormos: Yes—rather than actual diseases, that encourage people to self-diagnose and to go to their doctor and demand of busy doctors with rushed practices that they get prescribed these drugs. Could I get a comment on both of those things, please?

Mr. Terence Young: I will briefly, and then perhaps you'd like to comment, Maryann.

We are opposed to the expansion of direct-to-consumer advertising. It leads to inappropriate use of prescription drugs. They only advertise the drugs they make the big money on and the drugs that are relatively new, they don't advertise the best drug for the condition, and they're bypassing our doctors. They're designed to bypass doctors. The TV ads, for example, of people singing and dancing in the street for Viagra—it's all a big joke, but hundreds of men have died after taking Viagra. A number of men have gone blind after taking Viagra because either they were taking nitroglycerine or they had low blood pressure at the same time. So it can be a dangerous drug.

The point is, all drugs cause adverse reactions—all drugs—and the only difference between a drug and a poison is dosage, so it's flippant, misleading and inappropriate to advertise drugs on television. It's against the law in Canada. They do it anyway with those ads that say, "Ask your doctor," and that's after they've already got you very upset in the middle of your favourite show, showing some poor guy falling dead at a family picnic in an ad for Lipitor. Those ads, we believe, are illegal. They sort of fit in a grey area in the legislation and we'd like to see them stopped.

Iatrogenic error is when a doctor takes an action and it harms the patient. It's not necessarily malpractice, but every doctor, when they graduate from medical school, swears to do no harm, and that's an issue of caution. They swear to be cautious in providing care that they don't take any action—no doctor ever wants to do that. It must be heartbreaking for doctors. Unfortunately, that's what leads to a lot of the fact that doctors don't report

adverse drug reactions—only 1% get reported—they feel so terrible about it. Sometimes they're not sure that their action, something they did, caused a drug reaction; and sometimes they're worried about getting sued, to be frank about it. We're not down on doctors. I have a brother who's a wonderful surgeon in Hamilton, Ontario, but systematically, these things are getting covered up because they have been traditionally and because the legislation doesn't let it be exposed.

Do you want to comment on iatrogenic—

Ms. Maryann Murray: I agree that an iatrogenic death just means that it's a death that was caused by the treatment; it doesn't necessarily mean someone was negligent. You can think that it's the best choice and have a very unfortunate outcome. But we're all making the point that those unfortunate outcomes need to be recorded as such and that we need to see whether maybe a lot of people are getting the same unfortunate outcome. It's not necessarily negligence at all. I think that most people are not negligent but that all of us, being human, make mistakes; and I think it's just a term that we use for what would turn out to be a medical error, because you wouldn't foresee hurting someone in the first place.

Mr. Peter Kormos: Thank you kindly.

The Chair (Mr. Lorenzo Berardinetti): Mr. Levac.

Mr. Dave Levac: First, let me thank you for sharing not only your presentation, but your stories, and my obvious support and sympathies for what you've had to go through. The very serious nature of this presentation seems to me to be put in perspective in terms of what you're doing, which is evidence-based. It appears to be evidence-based and it's asking for the cloak to be removed from that. I appreciate that comment and concern, and obviously you know how the committee works: There are staff and individuals here who are hearing this clearly, things to investigate and review.

I was very pleased to hear your answer to the opposition question, that working with everybody is the most appropriate way to do this.

Mr. Terence Young: It's a non-partisan issue.

Mr. Dave Levac: Absolutely, and I'm sure that everyone understands that. I'll make the undertaking to make sure that the staff are made aware of contacts with you, in order for us to work with you as well to ensure that the concerns that you raise are dealt with.

I can't make a commitment as to, "Yes, I'm going to throw an amendment in right away." But we need to have an honest discussion of the issues that you bring forth, because you represent a larger group of people, and it's growing. We cannot deny that reality. I will do what I can and undertake to make sure that the minister has been made aware of the concerns that you're raising for us.

I have one quick question, and then I'll turn it over to my colleague. Who determines the "suspicious death" component? It's the coroner, correct?

Mr. Terence Young: Yes, from my understanding.

Mr. Dave Levac: Yes, from my understanding, it's the coroner. So the idea would be to ensure that the classification of a suspicious death then ties in to what

you're asking for: that once it's declared, then you have to do certain things in order to eliminate it from being a prescription drug death.

Mr. Terence Young: We read about bizarre acts of violence all the time, the group of people I work with on the Internet across North America. For instance, a woman jumped off a bridge on the 401, I think it was about two years ago, with her infant. The first thing we look for in the newspaper report is "drug treated for depression" or if a drug was involved.

I spoke with Kimveer Gill's father—he's the one who shot up Dawson College in Montreal—and asked him, and his father said, "Oh, that was long ago." So I couldn't get a clear answer. But just because someone is no longer on those drugs, that doesn't mean anything, because it takes weeks and sometimes months to totally withdraw from those drugs. They affect your brain in a similar way to LSD, in fact.

Mr. Dave Levac: Okay, thank you. Jeff? That's good for me, Mr. Chair.

Mr. Jeff Leal: Mr. Young, I want to thank you and your other two presenters today for sharing your profound human side and the tragedy of this issue. I know you've done extensive research in this area. Is there a fundamental weakness in the way the federal Food and Drug Administration in the United States tests drugs, and indeed here at Health Canada? As a consumer, I take a high blood pressure medication, and I assume my doctor—a fine family physician in Peterborough—prescribes that to me with a sense, and I have confidence when I take that medicine, of the potential adverse effects of that. Is there a fundamental flaw in the way we do our testing in the United States and Canada? I understand the big drug lobbies—we see them all the time on CNN promoting a wide variety of products.

Mr. Terence Young: The FDA and Health Canada do not test drugs. The labs were closed in Canada in 1997. Drug companies test their own drugs. When a drug is approved, the new drug application arrives in one or two trucks full of boxes, and some doctor-drug reviewer has the unenviable task of going through those boxes and trying to decide what's right and what's wrong and if this drug is safe. They start to get phone calls from above and pressure from the pharmaceutical companies to approve the drug faster. So they have to go through all this stuff and make a decision. Sometimes the decision is wrong, but sometimes the decision can be right based on the evidence, but a danger of a drug doesn't show up until it's taken by thousands of people, because it might kill only one out of 10,000 people, or it might only destroy the liver of one in 10,000 people. Well, if a million people take the drug, there are 100 people who need a new liver.

The process has to be more cautious. What Health Canada and the FDA have been doing in recent years is, instead of being more cautious, they're approving drugs even faster. It's one of only two positions in the government where you don't want people to do things faster. You don't want people standing over air traffic con-

trollers and saying, "Hurry up. Get those planes in." And you don't want people standing over drug reviewers and saying, "Hurry up. Where's our drug?"

The other side of that, of course, is that 97% of new drugs on the market offer nothing new to patients, no new therapy; they just do what other drugs do. Only 3% are considered breakthrough or new therapy in any way. Now, if they wanted to rush those drugs with an extra team of doctors reviewing them and looking at them, and the benefit is outweighing the risk, we would have no objection. But always with medical care, the benefit has to outweigh the risk. The patient has a right to make an informed choice, and patients aren't getting warnings. They're not being told; neither are their families. They're not making informed choices.

Mr. Jeff Leal: Mr. Young, if I could just follow up quickly, the reason, I take it, the labs were closed in the States and Canada was to speed up the review in not having the extra peer review of a particular drug—is that right?

Mr. Terence Young: Well, they started with the AIDS drugs in the 1990s. They said, "We've got to get these drugs on the market faster." Then, once they got that process—because these drugs save lives, and the benefit does outweigh the risk fairly easily if you're going to die—they started to expand it to other drugs as well. Since 1997, 12 major drugs have been taken off the market in the United States, and 11 in Canada, for killing and injuring patients. Prepuisid is just one of them. Obviously those drugs shouldn't have been approved, and if they were approved, they shouldn't have been taken by so many people so quickly, but it's the promotions and the direct-to-consumer advertising, and the drug reps are in our doctors' offices, frankly. I have two chapters in my book about the inappropriate relationships—the golf games, the dinners, the trips to the Bahamas, the trips to Egypt—and the doctors have debts of gratitude. How can a doctor pay a debt of gratitude to a drug rep? They put their drugs in our bloodstreams.

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Mr. Jeff Leal: Thank you so much for lifting this veil on this particular issue. I truly appreciate that.

Mr. Terence Young: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Mr. Kormos.

Mr. Peter Kormos: The Chair might inquire as to where on April 14 Mr. Young's book launch is here in Toronto and at what time, and who the publisher is.

Mr. Terence Young: I'm going to ask one of the people to send out an e-mail. We're going to do a book launch at Massey College, so if anybody wants to come, just walk over after work.

Mr. Peter Kormos: People read this Hansard, though. Give us the date, time—

Mr. Terence Young: We're working on April 14 at 6 o'clock at Massey College.

Mr. Peter Kormos: And the publisher?

Mr. Terence Young: The publisher is Key Porter, which I'm so grateful to.

The Chair (Mr. Lorenzo Berardinetti): If you forward something to the clerk, we'll endeavour to get it to every member of the—

Mr. Peter Kormos: People read the Hansard of committees, and—

Mr. Terence Young: Thank you.

The Chair (Mr. Lorenzo Berardinetti): All right. Thank you very much, Mr. Young, and all, for coming this morning, and for your very informative presentation.

We're running a few minutes behind.

CHI-KUN SHI

The Chair (Mr. Lorenzo Berardinetti): Our next presenters are Ms. Chi-Kun Shi and Jenny Chu. Good morning, and welcome.

Ms. Chi-Kun Shi: Good morning.

Mrs. Jenny Chu: Good morning.

The Chair (Mr. Lorenzo Berardinetti): You have 20 minutes to make your presentation. Any time you don't use will be used by the committee members to ask questions.

Ms. Chi-Kun Shi: Thank you. My name is Chi-Kun Shi. I am a lawyer. I am here on behalf of Steven Chau, a patient with schizophrenia. With me is Mrs. Jenny Chu, his sister.

First of all, thank you all for hearing us today. I know it's a very busy day at the Legislature.

We are here to present Mr. Chau's case to illustrate the importance of section 22 of the Coroners Act in safeguarding public health. We join Mr. Young's call to maintain section 22 in the Coroners Act. Section 22 gives the minister the discretion to direct the coroner to hold an inquest and simplifies the procedure for doing so.

Mr. Chau is currently held in the Whitby Mental Health Centre. He has been there since he was found not criminally responsible for the murder of his wife, Shao-Fang Liang, his three-year-old daughter, Vivian, and five-month-old son, Ivan.

The background of this case and the selection of documents related to it are in the brief before you. It's the one with all the tabs.

On the morning of February 9, 2006, Steven tried to get a ride to his doctor's office to seek help for his schizophrenia. By the time his friend arrived to give him the ride, he had locked the door and gone into a full-blown psychosis, which caused him to kill his wife, Shao-Fang, his daughter, Vivian, and his son, Ivan, using a meat cleaver.

Steven's schizophrenic conditions had been held under control for 18 years by the monthly injection of a low dosage of a medicine called Piportil. It was administered at his family doctor's office due to a shortage of psychiatrists. He missed his January 2006 injection. He killed his family 12 days later.

At the preliminary inquiry into the murder charges, both the family doctor and the psychiatrist were extensively cross-examined as to any safeguards that may have existed to ensure that patients such as Steven take their medicine as required.

You will find excerpts from such testimony under tabs 2 and 4 of the brief if you'd like to read them. Both doctors also gave written statements on this issue, and they are contained in tabs 6 and 7. I would like to read from it to show what seems to be the current situation on this issue.

First of all, under tab 6 is the statement of the family doctor, Dr. Edmund Lo. It stated: "It is up to the family to remind the patient to come in and take his medicine. We simply can't remind all of our patients. Mr. Steven Chau got an injection on December 28, 2005, of Piportil L4, 25 mgs. He did not have an appointment thereafter. We don't schedule a next appointment. It is up to him to schedule it. He should have had another one at the end of January 2006."

Then his psychiatrist, whose statement is in tab 7, on the third page, said that Mr. Chau was supposed to be on Piportil. He would have been in there to get the regular dosage, and he said, "It is the responsibility of the patient and family to make sure they come."

Steven's care had been downloaded onto his family physician, whose experience with schizophrenics was very limited. Specifically, if you were to go to the footnote if you would like to read it—I won't turn to it. He testified at the preliminary inquiry that he's only ever treated five schizophrenics. On the other hand, Steven's time with his psychiatrist during 12 years was about 140 minutes in total. This testimony, the psychiatrist's transcript, can also be found in tab 4.

For about six months before the tragedy, Steven had displayed clear symptoms of breakthrough of his schizophrenia. According to the agreed statement of facts accepted by the criminal court, which is in tab 3, these symptoms included Steven's belief that his children were the devil and his irrational behaviour of attempting to excise the household of evil spirits, such as boiling water continuously for 24 hours and throwing out his children's toys. Despite all of this, his family doctor did not increase his dosage, nor did the doctor heed Mrs. Chu's warnings about his ominous conduct and her plea to commit Steven. The doctor denies to this day that the warnings occurred.

After Steven was found not criminally responsible in 2008, on November 18, 2008, he requested that the coroner hold an inquest into his family's deaths. On the same day the request was submitted, Mrs. Christine Elliott, a member of this committee, asked Minister Bartolucci to exercise his discretion under section 22 of the Coroners Act and direct an inquest. Minister Bartolucci replied that there is a process in place that requires him to allow the request to be handled by the local coroner, then the regional coroner and finally the chief coroner. As a result, the request remains outstanding as of today, more than four months later, waiting to be examined by the pediatric death review committee and the deaths-under-five committee at the coroner's office.

Contrary to Minister Bartolucci's position, the courts have in fact interpreted the minister's discretion under section 22 as one which provides, "overriding authority ... to order an inquest at any time regardless of what has

gone on before" in the coroner's office. I have enclosed a copy of the case under tab 11. The case was decided in Superior Court, affirmed at the Court of Appeal, and application for leave to appeal to the Supreme Court of Canada was denied.

It is our submission that section 22 could and should be involved in cases such as this to launch an inquest. The proposed abolition of section 22 will eliminate this very effective tool. This tragedy has received extensive media coverage in both the Chinese and other media. In the Chinese media it has received blanket coverage, with many reporting Steven's request for an inquest as front-page news. Our announcement of the request, which we did at a press conference at the Queen's Park press gallery, was very well attended. I have enclosed a chart summarizing a selection of media coverage for illustrative purposes in tab 9. It was not possible to include all the coverage.

This tragedy raises obvious and disturbing issues of public safety. Steven was not resisting medication: He fell off the wagon, and the system did not catch him. At his last moment of lucidity, he called his friend Sam to drive him to the doctor, but by the time Sam arrived it was too late, and his family bore the brunt of the catastrophe that ensued.

Steven did cry out for help. So did his family. Mrs. Chu was very alarmed by his symptoms and tried desperately to get him committed. The cries were not heard, and the system failed. I respectfully submit that this is an obvious case for an inquest. The pre-eminent forensic psychiatrist Dr. Hy Bloom, who examined Steven, said it best: "The Chau case is just one example of many where one or more shortcomings in patient care, communication and resources have resulted in a tragedy." Careful retrospective analysis often yields valuable information about how not to make the same mistake. The exercise is worthwhile when the stakes are the well-being of patients and families and the safety of the community. Dr. Bloom's statement can be found in tab 10 of the brief.

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A minister's discretion to direct an inquest under section 22 of the Coroners Act removes the waiting period dictated by the coroner's office workload and allows public safety concerns to be addressed without delay. It should remain available in order to address issues of public safety promptly. I submit that we do not require another tragedy such as the Chau family's case to realize that when public safety is concerned, time is always of the essence. Furthermore, communities such as the Chinese Canadians have needs and barriers that are unique to them, such as language and stigma. For these communities, section 22 of the Coroners Act provides a simple and direct means to access the system.

Finally, I would like to finish my submission by outlining the questions that a Chau inquest could address:

(1) How can the existing system be improved to better receive and respond to mental health patients' cries for help, and on a more timely basis?

(2) How can the existing system be improved so as to assist and ensure that mental health patients who rely on

their medication to control potentially violent tendencies do not miss their regular dosages?

(3) If and when the dosages cannot be administered on a timely basis, what safeguards should be in place to protect the public from dangerous psychosis?

(4) How can the existing system be improved so that mental health patients receive care from qualified practitioners attuned to systems that demand intervention not only to address the patient's health care but also to protect the patient's immediate surrounding family and community from harm?

(5) How can the existing system be improved so that children who are in the regular care, custody or presence of mental health patients can be better protected, as they are obviously unable to protect themselves, nor are they able to judge as to when they are in danger?

Members of the committee, Steven's request for an inquest is very unusual. It's very unusual for a killer to ask for an inquest. It is a cry for help. It is too late for his wife and children—and if you'd like to have a look at them, I have included their photos under tab 8—but he is asking for help for all the other Shao Fangs, Vivians and Ivans who are out there. The minister can respond to the request now by invoking section 22 of the Coroners Act and not abolishing it. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much. We have about eight minutes, so roughly two and a half minutes or so, starting with the NDP.

Mr. Peter Kormos: Thank you very much. I believe all of us are familiar with this matter because you were here at Queen's Park some short time ago making a plea for the Solicitor General to invoke section 22.

Thank you very much for a very thorough brief. As you were talking, I was trying very hard, and I believe I did hear what you said as well as going through the brief and reading or at least scanning most of the material. There's really nothing more to add than the fact that we share your concern about the repeal of section 22.

Ms. Chi-Kun Shi: Thank you.

Mr. Peter Kormos: The mere fact that it's not used often isn't a reason to repeal it. In fact, it's a demonstration that Solicitors General don't use it willy-nilly. The fact that it's not used often is an argument to keep it because it demonstrates that people have had to meet a very high standard before the Solicitor General would effectively overrule a coroner and then chief coroner.

I don't understand the logic of it. I suppose it's one of those things where if politicians want to avoid the responsibilities of their office, they do things like repeal section 22. You see, that way it becomes much easier to be a Solicitor General. You just cruise through—you can do it standing on your head, huh, Chair?—because you don't have to make these decisions anymore. I find that a regrettable course in political responsibility.

Thank you for coming in here. I hope everybody reads the brief, because when you read it in its totality, it's even more compelling. Thank you.

Ms. Chi-Kun Shi: Thank you, Mr. Kormos. If I may add, the community concern about this case has never

abated. In fact, if I choose to go, I have been invited to not one but two radio interviews next week to talk about any progress, specifically on the topic, "Is anything being done about this?"

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the Liberals.

Mr. Dave Levac: To Jenny, my apologies and sympathies to the family and to the community. As Mr. Kormos pointed out, I am aware because of the notoriety of the case, so my obvious first response is my sympathies to the entire family and the community for what they've had to go through.

I appreciate deeply the depth of the presentation, and I, too, was looking at it. I don't subscribe to the characterization that Mr. Kormos made of any one politician in this place, regardless of what party they belong to, who would ever try to skirt any kind of responsibility. It's an evaluation that's being done in the proposed updating—as a result of Dr. Smith's actions—of a very old act to try to improve the circumstances.

The comments are heard and the comments are recorded. The staff, the minister, myself and our committee are listening carefully to all the deputations, and those inputs will be used to make some final decisions on how the bill will look. I hope you don't go away with the characterization that any one minister is trying to abdicate any of their responsibility whatsoever. It's just a different way of looking at things, and I happen to subscribe to a different opinion, not necessarily one that makes politicians look bad. I'm trying to hear as much information as I possibly can and share that with the minister and share it with staff. I deeply appreciate your presentation. It will be listened to, it has been heard and we'll make some deliberations along with this committee and, finally, the minister's office on how the final bill will look.

I appreciate very much what you've gone through.

The Chair (Mr. Lorenzo Berardinetti): We'll go to the Conservatives.

Mr. Garfield Dunlop: I just want to say thank you for coming. I want to apologize on behalf of my colleague Christine Elliott. She has been held up in Whitby. She's called her office once this morning already. She would like to follow up more closely with this presentation as well because she asked the question in the House to Mr. Bartolucci.

We hear you loud and clear and we'll look forward to working with the government to make sure the proper recommendations are put through, including the one on section 22, of course. I think that's an automatic—they'll withdraw that.

Ms. Chi-Kun Shi: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you once again for your presentation and for coming this morning.

ADVOCACY CENTRE FOR THE ELDERLY

The Chair (Mr. Lorenzo Berardinetti): Our next deputation scheduled is the Advocacy Centre for the

Elderly, Jane Meadus. While you're settling in, the procedure is basically that you have 20 minutes to present. Any time that's not used during that 20 minutes will be time that the members of the committee can ask questions. So welcome, good morning, and feel free to proceed once you've identified yourselves.

Ms. Jane Meadus: Good morning. Thank you, Mr. Chair and members of the committee. My name is Jane Meadus and I'm a lawyer at the Advocacy Centre for the Elderly. With me this morning is Lisa Romano. She's also a lawyer at the centre. Together, we prepared the written document that you should have before you this morning. I'll be doing the oral submission today.

For those of you who aren't familiar with our legal clinic, we are a specialty clinic which provides services to low-income seniors in Ontario. We provide services in the law with respect to issues of age. My expertise is in the area of long-term care, and that's where most of what we'll be talking about today will come from.

First, I would like to endorse two written submissions that were presented, one by Marshall Swadron on behalf of the Mental Health Legal Committee, and Suzan Fraser, a barrister and solicitor who was one of the counsel at Goudge. We wanted to endorse those.

I also think that our comments will come nicely after Mr. Young's. We share a lot of the same concerns that he does. It's interesting: I have just finished reading a book called *Our Daily Meds*. Some people had expressed some interest in some material on this issue. That's an American book that talks about the drug industry, which I suspect will be a good counterpart to Mr. Young's book. I just mention that to you.

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The mission statement of the coroner's office says:

"We speak for the dead to protect the living.

"The Office of the Chief Coroner for Ontario serves the living through high-quality death investigations and inquests to ensure that no death will be overlooked, concealed or ignored. The findings are used to generate recommendations to help improve public safety and prevent deaths in similar circumstances."

We, obviously, thoroughly support that; we just don't feel that it is happening in all cases. We certainly come from the area of long-term care. Our experience is that we have been involved in many inquests, including the Meadowcroft inquest into a retirement home where a number of people were killed in a fire; the Kidnie inquest, where an elderly woman was involved in a car accident that killed another woman. I represented a group at the John Wilson inquest, who was a gentleman who set himself on fire in a chair in a long-term-care home. Finally, I represented Concerned Friends at what is known colloquially as the Casa Verde inquest, which was about the gentleman who murdered his two roommates within seven hours of admission to a long-term-care home. These were very important inquests. They brought a lot of very good information to light about the systems. What they didn't do was show the day-to-day problems, such as the issues of overmedication and adverse effects.

This is something that is not looked at and is missing in our coroner's system.

When we looked at the Goudge report, it was a totally different system than what we deal with with seniors. The Goudge report was talking about a problem with forensic pathology and Dr. Smith's actions. Our clients don't get that far. The coroner comes in, if we're lucky, may or may not see the body, and generally assumes that the death was one of some kind of natural cause—heart attack etc. So even though there's a lot of research out there that talks about the thousands of deaths that occur because of adverse effects of medication etc., they're not being looked at because no one takes the time to actually research that.

What has happened in the past in long-term care is that there was a system in place, up until fairly recently, where a long-term-care home would keep a list of the deaths in that home. They would have a list in their office and then the coroner would be called on what they called the "threshold death," which was the 10th death, and then they would look at those. This was so highly misinterpreted that even if someone had something like a fall or there was a homicide, things like that, the coroner wasn't necessarily called because they said, "It's not the 10th death; we don't have to call." They weren't calling in, the normal course, where there were homicides; in fact, at the Casa Verde inquest, one of the things that we found out was that there had been a number of homicides that had never been reported to the coroner's office. The coroner would just come out, look at the sheets and sort of check off on them. They're not doing the kind of investigations that we think are necessary in the long-term-care homes.

There are 600 homes in Ontario and 75,000 residents, which of course does lead to a huge number of deaths, and most of those would be of natural-type causes. However, we don't feel that at the present time there's enough investigation or enough questions that are being asked. They're not asking what kind of medications people are on, what precipitated things. We have a lot of deaths from poor restraint use, so people are getting strangled on restraints, people are getting legs caught in bedrails where they would get their legs, hips broken, and they might go to the hospital. They may not be reported to the coroner. We actually have a lot of issues in the system and we feel that one of the things that should happen is that there should be a better definition of what a coroner is, what his qualifications are, in the legislation. They should have some kind of investigative requirements. So what we see from Goudge is great. We think it's great and it's come into Bill 115 quite nicely, but our clients don't even get to the door, and it's a problem.

Very often, when we get calls at our office, it is from a family whose family member has either died under circumstances which are suspicious or unsettling, let's say, or something has happened and they know that the family member is going to die. We have to tell them to call the coroner because it will not happen in the normal course, even though it should because it's a death that

was unexpected or from a fall or something. So we really feel that this is important.

Another issue that we would like to bring to this committee's attention is the use of the review committees. As you may know, there's a pediatric review committee. There's also the geriatric and long-term-care committee, and that doesn't appear anywhere in legislation. We would like an amendment to the regulation portion so that this can be put into the regulations at a later date: which committees there have to be; how often they have to report; who should be on the committees—and that's really important, especially in the area of geriatrics, because a lot of the issues do deal with long-term-care homes and placement issues about discharge from hospital. The committees, at the present time, are made up of all medical personnel, and there are problems because they sometimes don't get the systems right or the law right.

A case in point is one report that appeared in the 2000 report. This was a woman who had a mental health issue as well as physical issues. She was admitted into a long-term-care home and was under the decision-making authority of the Public Guardian and Trustee. The home asked them to sign what they call a "do not resuscitate" order. The PGT did not do that because substitute decision-makers don't have that kind of authority. This woman didn't have any kind of illness that one would think that she would need resuscitation for. Eventually what happened was, the woman fell in her wheelchair, was in the restraint, and something happened—oxygen was cut off—and she died. The staff did not provide CPR because the home had a no-CPR policy unless there was a specific order. So they weren't using their medical knowledge to decide when a person should be resuscitated. Unfortunately, what came out of that was they said the PGT should do a better job of making these kinds of reports, instead of saying, "Hey, look, these people in the homes have their medical personnel. They should be making their own decisions." When you come upon someone and they're having problems, they've just gone into cardiac arrest, you have to sometimes use your own medical decision-making to decide when to give CPR. We have machines in arenas, in GO stations, in all sorts of places now, yet in a long-term-care home, you're very unlikely to get CPR unless someone has specifically requested it, and they don't want to make their own decisions. So there are a lot of issues with respect to that.

You may want to look at some of those geriatric review committee reports, because I think they're quite interesting. The other thing is that they're not very widely read. The same types of information are in them every year. I read the same reports about the same kinds of deaths every year. They're very useful to me. I've actually had cases where I've taken a report and sent it to a hospital and said, "You have to look at this because this is a problem," and a person has been treated because of that. I'm certainly not a doctor, but it's things like fecal impaction that are constantly not treated properly, restraint issues etc.

I'm going to stop there in case you have some questions. Thank you.

The Chair (Mr. Lorenzo Berardinetti): We have about seven minutes or so for questions, so a couple of minutes each. This time around, we'll start with the Liberal Party and Mr. Levac.

Mr. Dave Levac: Thanks very much for your presentation. Obviously, your advocacy for seniors is appreciated. It's obvious, with your deputation, that you've been involved in a large-detail factor in some of these unfortunate deaths, so I appreciate the work that you're doing.

Ms. Jane Meadus: Thank you.

Mr. Dave Levac: If I've got this right—and I'll do a little synopsis of this—you're hoping that committee structure is found within the regulatory body of the bill; if the bill is passed, then there's a regulatory regime to create and define and tighten up the committee work of various sections of that committee. There's the prescription drug issue that you think needs to be captured in the body of the bill, similar to what Mr. Young presented earlier, and that because of the nature of the Goudge report and the fact that you think the scope is narrow in terms of how the bill is responding, you would want to see its scope broadened to capture other areas that you've identified as things that are not covered in the bill. So are those three things the key function of what you're asking us to do?

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Ms. Jane Meadus: Yes.

Mr. Dave Levac: I appreciate that, and the words are there. We'll work with the staff to discuss this in-depth, and I'm sure the committee, from all sides, will try to implement those thoughts. I appreciate what you've done.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to Mr. Dunlop.

Mr. Garfield Dunlop: Thank you for your presentation today. I was interested in the part of your presentation on the long-term-care homes.

Maybe you can't share this, but I'm wondering if your organization has actually worked with the long-term-care-bed association, the people who run those homes, and if you might tell us if you've had that conversation or what kind of an impact you've had with them.

Ms. Jane Meadus: We have a lot of interaction with long-term-care homes—the OLTCA, the Ontario Long Term Care Association, as well as ONNHA, which deals with the homes for the aged, and the non-profit groups—not necessarily specifically around this topic, although certainly during inquests, we do have conversations about some of this stuff.

I think one of our areas of most concern is around the prescription drugs and the use of that. It is very difficult. Yesterday I was talking to a client whose parent was in a long-term-care home, who indicated she'd been concerned because her mother was being prescribed one of these anti-psychotics, which comes with black box warnings saying it's not to be used in the elderly and it causes heart attacks, and the staff member sort of assured

her that no, this was perfectly safe and that 60% of the residents in that home were on this medication.

It can be very difficult to deal with it sometimes, because they have different perspectives on it. They see it as being beneficial, and we just don't. So we certainly have conversations; we don't necessarily agree.

Mr. Garfield Dunlop: If I may just quickly say, we've been dealing a lot with long-term-care homes in our ridings. They're looking for more funding, they feel they're severely underfunded, and this may be another reason that we can go back to them with and say this is another reason for the government to increase funding so as to provide proper nursing care etc. that they don't have right now.

Ms. Jane Meadus: I'd be for anything that increased funding.

The Chair (Mr. Lorenzo Berardinetti): We'll go on to Mr. Kormos.

Mr. Peter Kormos: I've managed to read most of your brief at the same time while listening carefully to you. There's a pattern, in just the couple of days that we've been allowed to sit, because we're hearing the unfortunate stories, right?

Ms. Jane Meadus: Yes.

Mr. Peter Kormos: We're not hearing the good-news stories, and that's to be expected, but there's a pattern and I don't know how to articulate it. There's something about the unspoken evidence about the demeanour or attitude or perspective of coroners; something's going on. Are they treating these things in a sausage factory manner, or are they treating them overly casually, or are they not interested in taking on the extra work? What's going on in the unfortunate cases?

Ms. Jane Meadus: I'm not sure exactly what's happening. I've dealt with some of the coroners. You've got your different levels of coroners: You've got your regionals, you've got the guys who have been around for a long time, and then you've got the people who come out on the day-to-day basis, they get the phone call and they come out.

Some of them seem to be very excited about things and some don't. I think that there does tend to be, certainly in the area of long-term care, that, well, it's only an old person and they were dying anyway. That seems to be some of what the problem is. I think it's the very opposite of what we heard at Goudge where Dr. Smith said, "Think dirty." I think they think clean in the area of long-term care and people who are seniors.

Mr. Peter Kormos: Interesting, and your perspective on seniors—of course, there's a whole group or movement that treats seniors' care on a cost-benefit basis.

Ms. Jane Meadus: Absolutely.

Mr. Peter Kormos: And that argues that when we have limited resources, seniors should be at the end of the line because, after all, their life expectancy based on actuarial tables is only that much. That's seen by some people as an enlightened perspective. I trust you don't agree.

Ms. Jane Meadus: I don't agree. I think one of the interesting points is that with seniors, the coroner's office

is often the only place that you can go to get any kind of resolution, because lawsuits in the area of seniors are something that, if you go to court, any lawyer will tell you that there's no money in it and it's going to cost too much. This is why it's so important to get the coroner's office really looking at some of these deaths, because it's the only game in town sometimes.

Mr. Peter Kormos: Thank you kindly. I wish we had more time.

Ms. Jane Meadus: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you for coming out today and for your presentation.

ALEXANDER FRANKLIN

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next deputation: The Worshipful Society of Apothecaries of London, Dr. Alexander Franklin. For members of the committee, there is an e-mail at the bottom of your package for today which contains some of the information, if I'm not mistaken.

Dr. Alexander Franklin: Thanks to Ms. Sourial.

The Chair (Mr. Lorenzo Berardinetti): Good morning and welcome.

Dr. Alexander Franklin: Chairman, members of the committee: Canada lacks a postgraduate diploma—

The Chair (Mr. Lorenzo Berardinetti): Sorry to interrupt. I know I've already mentioned your name, but just for—

Dr. Alexander Franklin: The name is Franklin.

The Chair (Mr. Lorenzo Berardinetti): All right. Thank you.

Dr. Alexander Franklin: Canada lacks a postgraduate diploma in forensic medicine. This is significant, as coroners are often primary practitioners. The Worshipful Society of Apothecaries of London, whose charter was granted by King James I in 1617, offers amongst its 10 postgraduate diplomas the following, in historical order:

—1962: diploma in medical jurisprudence, followed in 1993 by the mastership;

—1998: diploma in forensic medical sciences;

—2002: diploma in forensic human identification.

For the clinical diploma in medical jurisprudence, there are 10 examiners. All are GPs with special interest, which is a designation recognized by the United Kingdom's National Health Service. Five examiners also have the legal qualifications of master of law. For the pathology diploma in medical jurisprudence, there are also 10 examiners, of which four are full professors, not associate or assistant. For the odontology diploma in medical jurisprudence, there are three dental examiners. For the diploma in forensic medicine, there are 12 examiners, including two full professors; six are members or fellows of the Royal College of Pathologists. Others are chemists, microbiologists or GPs with multiple diplomas.

It would seem reasonable for Ontario coroners to have at least one of these diplomas, which would require staying in London for a year's education at a cost of, I estimate, about \$150,000, all included. The ideal would

be a coroner with all three diplomas, which could be achieved over time.

As Ms. Sourial has so kindly provided, the apothecaries' website is at www.apothecaries.org. For the record, my background is liveryman of the apothecaries since 1965; MBBS, London; diploma of physical medicine and rheumatology in the UK; and Toronto diplomas in public health and industrial medicine with qualifications in Canada and the USA.

If any communication about this is required, I've put down my e-mail, scandiamed@aol.com.

Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We're supposed to start with the PCs, but we'll start with the NDP.

Mr. Peter Kormos: Dr. Franklin, needless to say, I've been anxiously waiting to hear about the Worshipful Society of Apothecaries of London since I read today's agenda.

This is an interesting point, and perhaps research would help us: Are there jurisdictions which require certain academic qualifications for people to perform this speciality of—how would you describe the specialty of being a coroner? Is it a pathologist, forensic—describe the scope of the coroner's role above and beyond a general practitioner.

Dr. Alexander Franklin: It's a very wide field, Mr. Kormos, as your past activity has shown to great advantage to the medical profession in Ontario. We all thank you very much.

It is really an application of law to medicine and medicine to law. It is, I would say, by its division into the clinical, the pathology, the dental science, how you apply law to medicine in the interest of the state and the person.

Mr. Peter Kormos: Again, I wonder if research could help us with an overview, not an intensive, but just sort of a demonstration of what different jurisdictions require of people before they are coroners, especially at that front-line level—the local or the regional court—because that's the gateway.

Dr. Alexander Franklin: Yes.

Mr. Peter Kormos: Thank you kindly. You've raised an important issue for us.

The Chair (Mr. Lorenzo Berardinetti): Thank you, and I'll move to the Liberals. Mr. Levac?

Mr. Dave Levac: Thank you, Dr. Franklin. I appreciate you bringing to our attention the depth the

apothecaries of London provide in terms of this particular scope of practice. As you've pointed out, it is broad and wide-ranging, but so is medical practice itself; it's even broader and wider.

I want to pick up on what Mr. Kormos was questioning in terms of research. I would like to broaden that a little bit as well to include courses or available upgrading, which I'm assuming—and I shouldn't do that—might be part of what you provide as a service as well; that in London not only do you get a diploma but you get upgrading and in-service or professional development? Or is that too broad an expectation?

Dr. Alexander Franklin: I don't believe the apothecaries offer that. They just offer the diplomas. But one of the great advantages in London of the numerous medical societies—unfortunately, in one of the great tragedies of Canadian medicine, the Toronto Academy of Medicine failed financially in the late 1980s. For example, in London it's really a non-stop performance of continual medical education. The Royal Society of Medicine has conferences and meetings going on six days a week, from early morning till late at night. There's the Medical Society of London, which I remember, and other societies. So if one looks at what's going on any day in London, it is incredible the amount of free—they're all free—lectures. Now, the Royal Society of Medicine, I should qualify that, is not free; for that you have to be a member. But the Royal Postgraduate Medical School and other places have continuous free lectures, which does not happen here in Toronto, where usually there is a fee.

Mr. Dave Levac: Thank you, Dr. Franklin. And a question too, Mr. Kormos, if you don't mind me adding that extension beyond to see what other professional development and courses are offered.

Mr. Peter Kormos: Of course.

Mr. Dave Levac: Thank you very much, Mr. Chairman, and Dr. Franklin, thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Dr. Franklin, for coming today, and thank you for your presentation.

Dr. Alexander Franklin: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Members of the committee, that completes our list of deputations for today. The committee now stands adjourned and will meet again on Thursday, April 2, 2009, at 2 p.m.

The committee adjourned at 1013.

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 Mr. Dave Levac (Brant L)

 Mr. Reza Moridi (Richmond Hill L)

 Mr. Lou Rinaldi (Northumberland-Quinte West L)

 Mr. John Yakabuski (Renfrew-Nipissing-Pembroke PC)

 Mr. David Zimmer (Willowdale L)

Substitutions / Membres remplaçants

Mr. Garfield Dunlop (Simcoe North / Simcoe-Nord PC)

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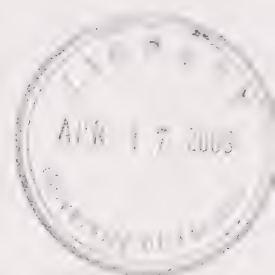
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Jeudi 2 avril 2009



Standing Committee on Justice Policy

Coroners Amendment Act, 2009

Comité permanent de la justice

Loi de 2009 modifiant
la Loi sur les coroners

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

Président : Lorenzo Berardinetti
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 2 April 2009

Jeudi 2 avril 2009

The committee met at 1404 in committee room 1.

CORONERS AMENDMENT ACT, 2009

LOI DE 2009 MODIFIANT
LA LOI SUR LES CORONERS

Consideration of Bill 115, An Act to amend the Coroners Act / Projet de loi 115, Loi modifiant la Loi sur les coroners.

The Chair (Mr. Lorenzo Berardinetti): I'd like to call the meeting of the Standing Committee on Justice Policy to order and welcome everyone here.

Members of committee, just before we start, there's a small administrative matter, and that is the issue of the submission of amendments so that we can deal with the clause-by-clause, which I think we're doing on Thursday, April 9, a week from today. I wonder if there are any suggestions for either Tuesday or Wednesday as a date, perhaps, for the submission of amendments, and a time.

Mr. Garfield Dunlop: To the clerk: What would be best for yourself? Is either day okay?

The Clerk of the Committee (Ms. Susan Sourial): Either day is okay. The legislative counsel on the bill is Doug Beecroft, if you need to get in touch with him to draft them. Wednesday is fine. It's an administrative deadline only, so amendments can still be tabled the day of, but it's just so we can distribute them to committee members.

Mr. Garfield Dunlop: Okay, 12 noon on Wednesday. I'd recommend that.

The Chair (Mr. Lorenzo Berardinetti): Is that okay?

Mr. Michael Prue: I would assume it's okay. I'm substituting for Peter Kormos, who had to attend a funeral for a soldier from his riding who was killed in Afghanistan. I'm here. I'm at your mercy. I don't know whatever dates—unless he has given any instruction, I acquiesce to the committee.

The Chair (Mr. Lorenzo Berardinetti): Mr. Levac?

Mr. Dave Levac: It's typical, so I would rest assured, Michael, that it wouldn't be a big issue, and I would concur with the request.

The Chair (Mr. Lorenzo Berardinetti): So Wednesday, April 8, by 12 noon, all amendments to be submitted to the clerk. All those in favour? Opposed? Carried. Okay, thank you.

We'll move on, then, to our deputations.

HIV AND AIDS LEGAL CLINIC (ONTARIO)

The Chair (Mr. Lorenzo Berardinetti): The first deputation we have here is scheduled for 2 o'clock—we're running a couple of minutes behind: HIV and AIDS Legal Clinic, Renée Lang and Anne Marie DiCenso. I think I may have pronounced that right.

While you're getting seated there, you have up to 20 minutes to make your presentation. Any time that's not used will then be used to ask questions that any committee members may have of you.

Ms. Renée Lang: Thank you, Mr. Chair. My name is Renée Lang. I am a staff lawyer at the HIV and AIDS Legal Clinic (Ontario). With me is Anne Marie DiCenso, who is the executive director of Prisoners' HIV/AIDS Support Action Network, also known as PASAN. My organization is also known as HALCO. That's how I'll refer to them today.

First of all, we'd like to thank you for giving us an opportunity to make submissions on the proposed amendments to the Coroners Act.

First off, I'm just going to briefly describe what our organizations do so you understand the context of our submission. HALCO is a charitable, not-for-profit, community-based legal clinic serving low-income people living with HIV/AIDS. It's the only such legal clinic in the country, and we have extensive front-line experience in addressing the day-to-day legal issues faced by people living with HIV/AIDS. HALCO provides legal advice and representation and engages in law reform endeavours like today, public legal education initiatives and community development work. The legal issues we encounter most are about tenancies, social assistance, human rights, health law, employment law, insurance, and prison issues. We receive over 2,500 client inquiries per year; we're a very busy, small legal clinic.

PASAN is a community-based organization made up of prisoners, ex-prisoners, organizations, activists and individuals working together to provide advocacy, education and support to prisoners and youth in custody with HIV/AIDS, and on HCV and related issues as well. HCV is hepatitis C.

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PASAN is the only organization in Canada working specifically to provide HIV/AIDS education and support to prisoners, ex-prisoners and youth in custody on a local, provincial and national basis.

PASAN provides direct services to prisoners, receiving between 500 and about 570 telephone calls every month—they're also very busy—from HIV-positive prisoners. Approximately 75% of calls involve difficulties encountered by prisoners accessing appropriate medical care.

Since 1993, PASAN has intervened on behalf of 542 different prisoners with HIV/AIDS in over 45 prisons, both federal and provincial, in six provinces.

Our organizations together have participated in three prisoners' inquests.

That's the context.

Our submissions on Bill 115 are limited to subsection 6(5) of the bill, so we have a very focused submission for you today.

Subsection 6(5) repeals and replaces subsections 10(3) and 10(4) of the Coroners Act, 1990. We are most concerned about the repeal of subsection 10(4)—I won't read you the verbatim; I'm sure you have access to it. Basically, it says that when a person dies in custody, "the coroner shall issue a warrant to hold an inquest upon the body." It's a mandatory inquest for someone who dies in custody.

The proposed new section takes away that mandatory inquest and replaces it with a discretionary one. It reads: "Where a person dies while committed to and on the premises of a correctional institution ... the coroner shall investigate the circumstances of the death and shall hold an inquest on the body if as a result of the investigation he or she is of the opinion that the person may not have died of natural causes."

Now there has to be a preliminary determination of whether or not the person died of natural causes, and this is what causes us some concern. The effect of the amendment is that where the inquest is on the body of a person who died in custody, it will no longer be mandatory unless it's determined that they died of natural causes.

The troubling part here is that "natural causes" is broadly defined. It's also defined by the chief coroner and not in legislation. The chief coroner defines "natural causes" as "due to a natural disease or known complication thereof; or known complication of treatment for the disease." That means that if death by disease was preventable—and often it is—it is still death by natural causes, and this means there may not be inquests into preventable deaths.

I'm going to give you an example that I personally dealt with recently. I represented the family in an inquest of a prisoner who died in custody. The man's name was Howard Matthews.

I have provided two handouts to you. One of them is the recommendations and verdict of the jury in that inquest, which was held last November. The other one is recommendations of the jury of an inquest on William Bell, who also died in custody, and that was in 1997. These are just for your reference. I'm going to summarize these in my submissions as well.

Howard Matthews died of AIDS-related illnesses on August 12, 2007, while he was in the custody of the

Central North Correctional Centre, which is a provincial institution. He was 28 years old. He had been in custody for a relatively short period of time, just since January 2006. I believe this was his first time in custody.

Because he died in custody, the inquest into his death was mandatory. It's possible that under the amended provisions—if you approve these amendments—there would have been no inquest into his death.

Our clinic was contacted by his criminal defence lawyer because his family had some concerns about the manner of his death. He was so young, and he died from a disease that is generally considered to be manageable.

At the time, no one could tell us what the cause of his death was. He very well could have drowned; we didn't know. We attempted to get his medical records, but we were denied by the ministry. We did not get any relevant information until I attended a pre-inquest hearing convened by the coroner. At that time, we were given a coroner's brief, which contained some medical records and a report by a medical expert who had reviewed the records.

What the report revealed was that Mr. Matthews tested positive for HIV in October 2005 and his blood had been tested for certain indicators of the progression of HIV in November and December 2006 while he was in custody. The expert gave the opinion that the results showed that Mr. Matthews should have been counselled to take HIV medications in late 2006 or early 2007 after that blood work was done. There was no indication on the record that Mr. Matthews was counselled about HIV medications at any time. There was no indication in the records that Mr. Matthews refused to take HIV medications, and there was no indication that he ever did take HIV medications; in fact, everyone agreed that he had not. The only way that our clinic got any of this information was through the inquest procedure.

At the inquest itself, evidence was given by the same expert who provided the report. He said that 80% of people with HIV who take their medications have a good response and increased life expectancy. Evidence was also presented at the inquest that Mr. Matthews had not accessed the services of PASAN, which could have counselled him with respect to the medications even if no one at the jail did. The jury of this inquest made nine recommendations, and you have a copy of those, so I'm not going to read them to you. But just to summarize, they recommended that prisoners have better access to PASAN's services and information about other HIV/AIDS and hepatitis C support groups. They also recommended that better documentation of the treatment of HIV-positive prisoners and other prisoners with medically complicated health problems be kept by the institutions.

The outcome of the Matthews inquest was very constructive. It didn't actually tell us definitively why he died, but it was very constructive, and it may very well prevent similar deaths in custody in the future if the recommendations are implemented, and we have every reason to believe that the ministry will make efforts to do that.

Just to summarize the Bell inquest much more briefly, the inquest into the death of William Bell, which took place in September 1997, may also not have taken place under the amended legislation. He died in custody. He was found to have passed away from natural causes. He died also from AIDS-related illness. His inquest gave rise to recommendations designed to improve the palliative care of prisoners in federal institutions in Ontario, no matter what their disease was. The recommendations also touched on the education of prison staff and access of prisoners to public agencies. So there were some very important recommendations that came out of that inquest, and you have a copy of that as well.

To conclude, inquest recommendations are not mandatory; I'm sure you know that. They need not be followed or implemented. However, they may be used as evidence in an action—let's say a family wants to sue—where a person dies unnecessarily and under similar circumstances. There is some pressure for the organization receiving the recommendations to take them seriously, especially if juries keep making the same recommendations. Inquest recommendations can lead to positive change and the prevention of unnecessary suffering and death. The proposed amendments will very likely lead to fewer inquests of deaths in custody. This will reduce the public scrutiny of the treatment of prisoners. The recommendations in the Bell and the Matthews inquests show that greater public scrutiny of the treatment of prisoners is necessary, not less. So we recommend that you leave this provision as is.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation. We have about three minutes per party. Should we start with the Conservative Party?

Mr. Garfield Dunlop: It has been interesting to sit through these committee hearings and see the things that parallel other deputations. We've got clause-by-clause coming up next week, and you have a couple of recommendations in here. From our perspective in our caucus, we're actually working on our amendments today, so we'll take your presentation and we'll try to see if we can utilize some of the amendments you're recommending to bring forward next week for that debate as well.

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Ms. Renée Lang: Thank you.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the NDP. Mr. Prue.

Mr. Michael Prue: I think you've made a fairly compelling case. The only concern you have is that you want an inquest to be held whenever anyone is in detention; I think it's self-evident.

Ms. Renée Lang: Yes.

Mr. Michael Prue: Everything else you're happy with.

Ms. Renée Lang: I didn't see any other problems in the proposed amendments, from our point of view. I'm sure other groups have problems, but no.

Mr. Michael Prue: How many deaths take place in institutions in Ontario per year? Would you have any idea, just a rough figure?

Ms. Renée Lang: There was a report. Sorry, I'd be guessing. I did look this up before I left and unfortunately didn't bring the report with me. Deaths of prisoners in custody I can tell you tend to be more violent than natural. They tend to be either suicides or assaults, but I don't know; roughly 1,000, I think, in a year. I'm not sure.

Mr. Michael Prue: A thousand deaths in—

Ms. Renée Lang: Federal and provincial, I believe.

Mr. Michael Prue: My goodness. Okay.

What about the case, though—say a person is in jail and they have cancer and the family knows they have cancer. Should the family have the right to say they don't want an inquest if someone dies, I guess naturally, of cancer while in the institution, or do you still think that one should be held anyway? I'm just trying to see whether—if the family is of the mind that, "No, we don't want an inquest because we're perfectly satisfied that the death, sad as it was, was caused by cancer"?

Ms. Renée Lang: The family would be entitled to make submissions. They would have automatic standing, pretty much; not legislatively, I don't think. But certainly I can't imagine a coroner not allowing family, especially direct family, to make submissions.

Mr. Michael Prue: No, but I'm saying if they don't want an inquest at all.

Ms. Renée Lang: At all?

Mr. Michael Prue: At all. Do you think there should still be one? I'm just trying to see—

Ms. Renée Lang: I think there should still be one, yes.

Mr. Michael Prue: Okay. Those would be my questions. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Mr. Levac for the Liberals.

Mr. Dave Levac: First of all, thank you very much for your presentation, and most of all, thank you for your advocacy. It's probably one of the most, if not the most, difficult circumstance anyone could zero in on in terms of advocacy for people in Ontario. I would thank you for that. It's a difficult and daunting task.

If somebody dies in police custody, we do know that there's an automatic inquest. You've zeroed it in even further, into the correctional facility and any other complementary detention etc. You made a comment twice now, and I was listening very carefully to this, and you didn't say for sure that no inquest would be called. You said "possibly" no inquest would be called, because the coroner would then have the right to do so, and if the coroner's inspection denoted, "This one's got me tweaked. We're going to do an inquest." So I'm assuming you're not saying that no inquest would be done—that it's probably likely that that might go down if you don't do it as a mandatory.

Ms. Renée Lang: That's exactly what I'm saying.

Mr. Dave Levac: Okay. The concern I also have is tying in the supervision and the scrutiny of care of inmates: By use of inquest would be an assumption that that's how you secure how prisoners are taken care of, other than other advocacy?

Ms. Renée Lang: I would not recommend that it be the only way, but certainly it's one of a number of ways that public scrutiny can be brought to bear on the treatment of prisoners.

Mr. Dave Levac: Right. And last but not least, the concern I would express is whether or not, and mark me when I say—I understand the advocacy position that you're taking. But the coroners are advising, from their expertise and their experience over the decades they've been doing this under the bill presently—mandatory. There are an awful lot of circumstances where—what I'm getting out of this—an inquest is not going to find anything peculiar, and an inquest is not going to do anything when a person dies of something that almost everybody knows they're going to die of, and therefore the assumption is the opposite: that we do know when people die; we do know. We get the idea that they died and it's "natural." I think what I'm hearing is that you are concerned with the scope of the word "natural"?

Ms. Renée Lang: Yes.

Mr. Dave Levac: And by making it mandatory, that eliminates that concern, because the coroner is going to find it to be natural. Even in the example you gave us, the coroner still indicated it was natural.

Ms. Renée Lang: Right. It was natural, but it was mandatory, so an inquest was done and very important recommendations were made as a result.

Mr. Dave Levac: Very good. Thanks for your deputation.

The Chair (Mr. Lorenzo Berardinetti): Again, thank you for being here this afternoon.

ONTARIO CORONERS ASSOCIATION

The Chair (Mr. Lorenzo Berardinetti): We're going to move on to our next deputation, the Ontario Coroners Association. We have Dr. Boyko, Dr. Teper and Dr. McKenzie.

Good afternoon, and welcome. Again, 20 minutes is the time, because of the number of deputations that we're dealing with. Any time that you don't use we'll have for questions. So once again, welcome.

Dr. Shane Teper: Thank you very much. I am Shane Teper, treasurer for the Ontario Coroners Association. I'd like to take this opportunity to thank the committee for giving us the opportunity to speak to Bill 115 and to represent the Ontario Coroners Association.

To review, the Ontario Coroners Association is a volunteer organization that's been active since 1974. Our mandate is to represent the front-line coroners and includes liaising and negotiating with the Office of the Chief Coroner, advocacy for coroners and continuing medical education for coroners. Our membership is voluntary and, as of the end of 2008, included 224 of the 360 coroners working in the province of Ontario.

With that introduction, I'd like to present Dr. Robert Boyko, our vice-president, and Dr. Bob McKenzie to speak further to the bill.

Dr. Robert Boyko: Thank you, Shane. I'm here representing our president, Dr. Don Thompson, who could not be here today. Since he sent in an initial draft of our concerns regarding amendments to the act, you have before you our final submission for your consideration. What I would like to do now is just read into the record our letter for your consideration, and then after the conclusion of that we are open for questions and clarification of the matters that we bring forward for your approval.

Representing the Ontario Coroners Association, we, the undersigned, wish to make a written submission on behalf of the Ontario Coroners Association in consideration of Bill 115, An Act to amend the Coroners Act. The OCA is the organizing body which represents the coroners of Ontario, and has a duly elected executive which meets regularly to discuss issues relevant to coroners' work.

We acknowledge the considerable work and deliberation that has gone into the new proposals and amendments, and understand the reasons behind the changes in the new act, prompted by the Goudge inquiry.

We agree that the changes to the existing act of 1972 were needed and appropriate in the current time of medical and scientific advances in death investigations. We also thoroughly understand the background to their current timeliness.

However, we wish to make comment and recommendations for amendment regarding the following areas in the current proposals of Bill 115.

Regarding section 8, we endorse the complaints process on the assumption that it will be fair and objective and that coroners and pathologists will be assessed on the quality of their work and their reports according to current practice guidelines.

We accept that the process of a complaint about a coroner being referred to the chief coroner when received by a complaints committee as constituted by the death investigation oversight committee will allow for an appropriate investigation of any complaint.

Regarding section 16, we continue to be strongly in favour of a death investigation system led by physician coroners. We read with interest the recent report by the US-based National Academy for Forensic Science, which supports the need for a physician-based system. However, we recognize that areas of our vast province may be physically underserved due to physician manpower, and consequently coroner, shortages. We therefore accept that highly trained non-physician experts appointed by and answerable to the chief coroner may need to be deployed to areas in northern Ontario to assist in specific death investigations.

We feel that their appropriate use will not dilute our original contention that the best system of death investigation available to the people of Ontario is the current system led by a physician coroner in liaison with pathologists and police and with the assistance, when appropriate, of other personnel with specific expertise in areas such as toxicology, biology, forensic dentistry, fire investigations and other forensic specialties.

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Regarding section 28, we acknowledge and respect the pathologists' importance in the investigation of a death and welcome their independent expertise in providing information which assists the coroner in the determination of the cause and manner of death. We feel that the development of a pathologists' registry specifically to recognize the unique skills of a group of pathologists who are to perform coroners' autopsies will improve the quality of the investigation of deaths where a coroner has decided that an autopsy is necessary. The provisions of the new act give the pathologist and the chief forensic pathologist the opportunity to add further examinations and analyses to those already stipulated in the coroner's warrant. While these may be entirely appropriate and necessary, based on the findings at the time of the autopsy, we feel strongly that it is important that the pathologist involved directly contact the coroner who has authorized the autopsy to discuss the additional tests or studies. This exchange of information will guide the coroner in any further investigation that may be needed and will help to ensure that all of the testing is relevant and to the purposes of the coroner's investigation as set out in subsection 15(1) of the new act. We therefore recommend that the new act should read, for subsection 28(5):

"The pathologist who performs the autopsy examination may conduct or direct any person other than a coroner to conduct such other examinations or analyses as he or she considers appropriate in the circumstances for the purposes of the coroner's investigation as defined under subsection 15(1), and he or she shall forthwith inform the coroner who issued the warrant for the post mortem examination of the body."

We also recommend that the new act should read, for subsection 28(6):

"The chief forensic pathologist may direct a pathologist or any other person, other than a coroner, to conduct any examinations and analyses that the chief forensic pathologist considers appropriate in the circumstances for the purposes of the coroner's investigation as defined under subsection 15(1), and he or she shall forthwith inform the coroner who issued the warrant for the post mortem examination of the body."

In a similar vein, we support the clause granting power to a pathologist to enter the place and inspect and examine the body for the purposes of the coroner's investigation. We would expect that any findings that the pathologist may make would be directly communicated to the coroner so that he or she can make such additional investigation as deemed appropriate. We therefore recommend that the new act should read, for subsection 28(4):

"The pathologist to whom the warrant is issued or, if no warrant has been issued, a pathologist who has been notified of the death by a coroner or police officer and who reasonably believes that a coroner's warrant will be issued to him or her under subsection (1) may, for the purposes of the coroner's investigation, as defined under subsection 15(1),

"(a) enter and inspect any place where the dead body is and examine the body; and

"(b) enter and inspect any place from which the pathologist has reasonable grounds for believing the body was removed,

"and he or she shall forthwith inform the coroner who issued or will be issuing the warrant for post mortem examination of the body."

In conclusion: Overall, we endorse this new Coroners Act and its purpose of improving on the current act of 1972. We feel that its provisions will allow the citizens of Ontario to maintain their confidence in the coroner system in this province. The current physician coroner-led system, using the diverse skill sets of a team of duly qualified personnel, will ensure that the coroner system will remain the envy of other provinces, states and countries in the years to come.

This is signed by Dr. Don Thompson, president, and executive members.

I would finally like to just comment on the rationale for the additions to the amendment to the wording of subsections 28(4), (5) and (6). Their intent, from our point of view, is to ensure that any other such examinations or analyses that are performed are done so in order to advance the coroner's investigation and not any criminal or other investigation until such time as other appropriate warrants are issued.

We also feel strongly that the coroner be informed immediately by the pathologist of any further testing ordered in order to be kept apprised as the lead investigator. Other relevant inquiries may need to be made once this information is known by the investigating coroner. This, in turn, will expedite the investigation.

Currently, not all pathologists in the province communicate their preliminary findings to the investigating coroner immediately following the post mortem examination, although this is expected and certainly will enhance the overall quality of the work and foster a more appropriate team environment.

Reports for toxicology in the past have taken up to as long as two to six months or longer to be sent to the investigating coroner. In this time, it may inhibit or impede our investigation and the ability to conduct such an investigation in a timely manner.

Thank you for your time. Now we are open for any questions, comments or clarifications.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation. We have about three minutes per party, and we'll start this time in rotation with the NDP. Mr. Prue will go first.

Mr. Michael Prue: In three minutes I just want to zero in on one point. You write: "We therefore accept that highly trained non-physician experts appointed by and answerable to the chief coroner may need to be deployed to areas in northern Ontario to assist in specific death investigations." Are you seeing them working in conjunction with the coroner or are you seeing them as being able to work separately and apart from the coroner, or would they be, in fact, the coroner?

Dr. Robert McKenzie: My understanding of the presentations that have previously been made in Goudge by people with aboriginal status up north is that their experience of coroners' investigations at present is at variance with the experience of most of the people in southern Ontario in that, because of the distances to be travelled, coroners often use the power they have under the act to appoint a police officer to take over the duties of the coroner because the police officer is able to fly in and spend four or five days there, whereas for the physician coroner, having to cancel 400 patients is a real problem.

We accept the fact that it's very unlikely that in northern Ontario we're going to have a huge influx of physicians so that we'll be able to free up a physician from his office for three or four days to fly into a reserve, spend the time there and fly back. The aboriginal community is obviously unhappy with the appointment of police to do the work of the coroners. They, I take it, want a person who is at arm's length from the police, as we are throughout the province. Therefore, they would welcome another type of investigator who would investigate with all of the authority of the coroner and would be responsible to the regional supervising coroner for northern Ontario.

Mr. Michael Prue: But should we expect that they have even the slightest lesser service? Everywhere in southern Ontario, I would imagine, and that includes most of the cities in northern Ontario, there is a coroner who is a physician. Why should we expect that aboriginal communities have someone lesser qualified?

Dr. Robert McKenzie: It wouldn't be a problem; it would just cost money.

Dr. Robert Boyko: In an ideal world, we believe from the viewpoint of the Ontario Coroners Association that a physician-led system is the best system. They have the best background in terms of underlying pathophysiology and understanding of disease in order to answer the five questions that are necessary under the Coroners Act, but given the circumstances that Dr. McKenzie has mentioned, we accept that this may not be the ideal situation.

Mr. Michael Prue: But I want to zero in, because I don't think that people in First Nations communities should accept any less of a service, any less of expertise than I have here in Toronto. I want to hear: Do you think—

Dr. Robert Boyko: I agree with you, sir.

Mr. Michael Prue: So if the money is there, you think they should have the same service and you would not agree with having someone who's trained but not qualified?

Dr. Robert McKenzie: In an ideal world, those people should expect the same level of service as we have in southern Ontario. The problem, of course, is that there are only so many dollars to go around to run the coroner's system, and to expect to pay physicians appropriately to be on call so that they are not in fact not only sacrificing income but it's not costing them money to do an investigation—because they still have to pay their

office staff etc. It's a long road to that place, and it's going to require a lot of money. If you feel that that's an appropriate expenditure, my hat's off to you.

1440

Mr. Michael Prue: Thank you.

The Chair (Mr. Lorenzo Berardinetti): We'll move to the Liberal Party.

Mr. Dave Levac: Gentlemen, thank you for your presentation and, as always, the work that you've done. Your organization has spent some time going through the legislation, and obviously the majority of what you're hearing in this amendment to the act is acceptable, if I'm reading that right. Please feel free to correct me. You have had a discussion with the chief coroner about some of the concerns that you've outlined today? If you have, I'm glad that that's happened. If you could share what they've done?

I would also tell you that the staff of the ministry would be absolutely willing to sit down and talk to you about the concerns you're raising here, because they seem to be an appropriate modification to the amendment, but that's me saying it here. We just need to continue the work that you're doing with that.

Just two quick comments to you, and just jot those down because I'm sure you can get to them.

First, in terms of the discussion that just took place, there would be a coroner involved in the case. The way the bill is written, there's an assurance that there would be a coroner there. It's the lack in the number of coroners we have and the inability to put a coroner in every corner of the province that's the problem. You're acquiescing, although it's not the best circumstance, to this other piece that we're adding, but a coroner would still be involved in the case.

My final comment is, a previous deputation indicated that we need to keep the mandatory investigation of death in incarceration there. If my understanding is correct, there is an investigation that's still mandatory, so the investigation should, or if not, at least come close to outlining the concerns that are being raised. Then the coroner can choose to do an inquest.

I gave you a mouthful. I'm sorry.

Dr. Robert McKenzie: That's okay. I can tell you that coroners don't treat any institution any differently in this province, whether it's the penal system or a hospital. If we investigate a natural-causes death at a hospital and turn up issues which are directly concerned with public safety and which might, if changes were made, go a long way to preventing deaths under similar circumstances, then we pursue it. We don't differentiate whether we're investigating a death at Mount Sinai Hospital or at the Don jail. If there are issues that can't be changed through gentle persuasion, then we always have the stick of the inquest.

Mr. Dave Levac: Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to Mr. Dunlop.

Mr. Garfield Dunlop: Yes, just a quick comment: As the professionals who have to work under this legislation,

the three recommendations that you're making here today would satisfy you as making the bill as complete as it could be?

Dr. Robert Boyko: These are the areas that we, as practising and investigating-in-inquest coroners, feel touch on us the most.

Mr. Garfield Dunlop: I'm curious, too, of the parliamentary assistant: Have you any indication of making some of these changes at this point? Could we see that come forward? Is it fair to ask that, Mr. Chairman?

Mr. Dave Levac: We can talk back and forth. My understanding is that they have met with the chief coroner to discuss the concerns and that the staff would make themselves available to discuss the inclusion of these in the legislation. If you'd like to do an amendment, Garfield, no problem if—

The Chair (Mr. Lorenzo Berardinetti): That's correct.

Mr. Garfield Dunlop: As long as somebody is—okay, that's fine. Thank you very much.

Mr. Dave Levac: As long as somebody deals with it.

Mr. Garfield Dunlop: Yes, okay.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation today.

NISHNAWBE ASKI NATION

The Chair (Mr. Lorenzo Berardinetti): We'll move on now to our 2:40 presentation, the Nishnawbe Aski Nation, Deputy Grand Chief Alvin Fiddler.

Good afternoon, and welcome.

Deputy Grand Chief Alvin Fiddler: Good afternoon. I don't have a watch, so you'll have to get me off.

The Chair (Mr. Lorenzo Berardinetti): That's okay; we have a clock here.

Deputy Grand Chief Alvin Fiddler: Thank you, Mr. Chair and members of the committee, for this opportunity to appear before you today. My name is Alvin Fiddler. I'm one of the deputy grand chiefs from Nishnawbe Aski Nation in northern Ontario.

Just briefly about who we are: The Nishnawbe Aski Nation is a political organization that represents 49 First Nations communities, covering two thirds of the province of Ontario. It represents those communities that signed Treaty No. 9 back in 1905-06. There was an adhesion to the treaty in 1929-30. There are over 30,000 First Nations people within that territory. So whenever I speak to government officials, I always tell them that I come to you not as a stakeholder—I'm not part of an interest group—I'm here as your treaty partner. Treaty No. 9 is unique in that, in all the other numbered treaties in Canada—the province was also a party to that treaty, to the adhesion of that treaty.

Before the Goudge commission, the relationship between the chief coroner's office or the coroner's office and our communities was nonexistent. I think it was for that reason, when we heard about the province calling for an inquiry to look at the coroner's services in the province, we were very interested in taking part in this process.

We applied for standing, and we were granted standing to participate in the inquiry. We're grateful to Justice Goudge for allowing us to participate in that inquiry.

We've looked at the bill that's been drafted to date. I must say here today that we are disappointed in the way that it's drafted, because we feel that it has not gone far enough to advance NAN and Commissioner Goudge's recommendations when it comes to First Nations, especially in the NAN territory. We believe that the bill could be significantly improved when it comes to addressing the needs of our communities. When the bill was introduced, I think there was recognition that the purpose of the legislation is to enhance oversight, accountability and transparency in Ontario's coroner system. I want to emphasize this point, that this is consistent with the findings of the Goudge commission. But I think we need to ask ourselves: Is the legislation as it stands now consistent with the findings of Justice Goudge's report and the recommendations when it comes to First Nations? We don't think it goes far enough in addressing our needs.

Commissioner Goudge, in his report, concluded that the province of Ontario and the Office of the Chief Coroner of Ontario have failed to provide adequate resources to ensure that the coroner's services and the forensic pathology services in First Nations communities and remote communities are reasonably equivalent to those elsewhere in the province, and we agree with this finding.

The Nishnawbe Aski Nation is engaging with this process as the bill makes its passage through the Legislature to ensure that the needs of the bereaved families and communities are on the forefront of the elected members' minds, in the hope that measures will be introduced that would:

- provide for dedicated First Nations representation in public oversight and accountability;
- address the issue of First Nation participation in coroner's juries;
- extend public funding for families' legal representation; and
- make recommendations to relevant statutory bodies following inquest findings and ensure action is taken following these recommendations.

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I just want to touch on these four points. First of all, on oversight and accountability: In our submissions to the Goudge inquiry we made a strong case for First Nation participation in oversight and accountability by recommending that First Nations have dedicated seats in the oversight and independent complaints body. Although the new legislation has provided for reforms in oversight and complaints, the First Nations community has no guarantee of representation in these oversight bodies.

The accountability and complaints process must be genuinely accessible to First Nations. One reasonable way to address the well-known barriers of language, geography and culture is to amend the bill to provide for First Nations representation in the oversight and complaints process.

Further, we are convinced that the bill must maintain the minister's power to direct an inquest by declining to pass clauses 13 and 16 of Bill 115. The recent report in the Frank Paul inquiry in BC has convinced us that there needs to be a step between the chief coroner and costly legal appeals when families and the chief coroner disagree on the need for an inquest. An appeal to the minister is that step.

The second point is on funding for legal representation. There continues to be inadequate provision of information and support to bereaved First Nation families and communities facing inquests at all stages, which affects their capacity to participate effectively in the inquest process.

There is no government-funded information service for First Nation families. Families and First Nation leadership often come to NAN for support, not having been advised they can be legally represented during the process; nor have they been given sufficient information about the inquest proceedings.

As we can see in the ongoing Kashechewan inquest that's taking place here in Toronto currently, both levels of government are legally represented by experienced and well-qualified lawyers at unlimited public expense. In contrast, at present, legal aid for families may be provided only in narrowly drawn, exceptional circumstances. We need a simple scheme to provide funds for bereaved families in respect of preparation and representation at inquests.

The coroner service should ensure bereaved families are referred to appropriate legal, social and health service providers, including traditional healers, including those in the voluntary sector. And mental health professionals and bereavement counsellors should be recognized partners within the system, as they were for families participating in the Goudge inquiry.

On the jury roll issue, juries are fundamental to the democratic system as they are the only opportunity where ordinary people can participate in the judicial system. In cases of contentious deaths, they are often seen by families as the key safeguard in terms of public accountability.

We have serious concerns with the adequacy of jury rolls when it comes to First Nations. NAN is demanding a formal inquiry into the jury roll system in Ontario, following a recent revelation at a coroner's inquest that the jury roll in the district of Kenora, which covers most of NAN territory, has systematically excluded First Nations people from jury participation, even though the law requires that they be included.

On the final point, to monitor and analyze inquest findings, all too often inquest recommendations and findings are ignored. We suggest that the bill be amended to impose a positive duty on the coroner to make a public report if he or she believes action should be taken. We believe that the bill should be amended to include a requirement to monitor and analyze inquest findings, and in order to make this a meaningful power it must be backed up by an effective enforcement mechanism.

The Office of the Chief Coroner should be required to make an annual report to the Legislature. The report would include:

(a) a summary of all investigations in which recommendations have been made; and

(b) a summary of responses to the recommendations made in the previous year, including a list of those recommendations which are still awaiting implementation or response.

In closing, I just want to say that the Goudge report and its recommendations provided all of us with tremendous insight into the needs of First Nations people, especially in the NAN territory in the remote north. I feel it is our responsibility to ensure and to see that the recommendations are reflected in Bill 115.

The Chair (Mr. Lorenzo Berardinetti): We have about three minutes per party. This time we start with the Liberal Party.

Mr. Jeff Leal: Welcome, Chief Fiddler. I serve in the role as parliamentary assistant to the Minister of Aboriginal Affairs, so I can assure you that Minister Duguid will have an opportunity to see your presentation today. You've raised some very important points in your presentation, and it really goes beyond a Judge Stephen Goudge inquiry. It goes to some of the broad-based recommendations that Justice Linden provided after his review of the very tragic events at Ipperwash, so I can guarantee you that Minister Duguid will receive this.

Just one quick comment: Section 4 of Bill 115—there is a complaints committee. I'll just make reference to section 8.2(1): "There shall be a complaints committee of the oversight council composed, in accordance with the regulations, of members of the oversight council appointed by the chair of the oversight council." There is some explanation in the bill of that. So with these words, I say "meegwetch" and I will make sure that Minister Duguid gets your representation, sir. Thank you very much for being here.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move over to the NDP and Mr. Prue. Do you have any questions or comments?

Mr. Michael Prue: Yes, I do. I thank you for your presentation. I think what that has done is highlighted the very poor job this province has done for the First Nations people in northern Ontario. You're absolutely right in terms of the province's failure to honour the spirit and intent of Treaty 9. I have spoken on this before in other venues and I have said how ashamed I am as an Ontarian that we have not treated First Nations in the same way we've treated everyone else who lives in the province of Ontario.

I asked the earlier deputation if they preferred, and they did, that First Nations coroners, coroners in traditional lands in northern Ontario, be medically trained, that they be doctors the same as they are in southern Ontario. Do you believe it is important that coroners in northern Ontario, I guess north of the 51st or 52nd parallel, be the same quality of training as those that exist in southern Ontario?

Deputy Grand Chief Alvin Fiddler: I agree that the capacity needs to be there in the First Nation community to properly investigate all deaths. When it comes to medical doctors, one of the comments we've heard in the communities we visited was that we have a hard enough time to bring doctors to our communities to see live people; it's more difficult for a doctor to come in to examine the deceased. So I think what our communities have said is that the province needs to work with us to ensure that the capacity is there, whether it's medical doctors, whether it's nurses, to train maybe our police officers or other front-line workers in the community, but we need to agree on what that would look like on the standards, on the criteria, on what that process would look like.

Mr. Michael Prue: The second thing is the flawed jury rolls. I was particularly upset when I first saw that, that First Nations communities in the whole broad swath of Kenora were hugely underrepresented when it came to jury duty, not only for coroners' juries but for criminal juries and other juries as well. They're just simply not called.

I've never heard an explanation. Have you ever heard an explanation for why this is the case?

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Deputy Grand Chief Alvin Fiddler: What I've been told is that back in 2002 the federal government, specifically the Department of Indian Affairs, stopped providing the membership lists of the communities to the province. That may be so, but that should not absolve, or that should not just—for the province to say, "We don't have that information, and therefore we will exclude the First Nations population," we don't accept that. I think the onus is still on the province to work with us, to ensure that our members are on those lists.

Mr. Michael Prue: I think so. People have a right to be tried and to be heard by a jury made up of their peers. How can you have a jury of peers if you exclude First Nations people, particularly in First Nations trials?

Deputy Grand Chief Alvin Fiddler: The figure that we found in the course of doing this work this winter is that in the district of Kenora, even though the First Nations population there is over 40%, there was only a handful, I think less than 40, of First Nations members on the jury roll list. We think this is unacceptable, and that's why we're saying that we need to address this issue.

Mr. Michael Prue: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Chief, for your presentation. We'll take your concerns into consideration when we do the clause-by-clause next week.

We'll move on to our next deputation, the 3 o'clock deputation, which is the Psychiatric Patient Advocate Office. We have Stanley Stylianos and Linda Carey listed.

Interjection.

The Chair (Mr. Lorenzo Berardinetti): Okay. We'll hold that one for now.

ABORIGINAL LEGAL SERVICES OF TORONTO

The Chair (Mr. Lorenzo Berardinetti): We'll go to the next one, which is Aboriginal Legal Services of Toronto, Kimberly Murray.

Good afternoon, and welcome.

Ms. Kimberly Murray: Good afternoon. I have someone who's going to sit next to me.

The Chair (Mr. Lorenzo Berardinetti): Okay; take your time. The only thing I would ask is that you identify yourself and anyone else who's going to speak, for the sake of Hansard. You have 20 minutes. Any time not used—

Ms. Kimberly Murray: I have a lot to say. I hope I can get it in in 20 minutes. I'll do my best.

The Chair (Mr. Lorenzo Berardinetti): Take your time.

Ms. Kimberly Murray: First, I want to say "sekon"; that's "hello" in Mohawk. I'm Haudenosaunee, and I'm from Kahnasatake, which is a Mohawk nation in Quebec.

I am the executive director of Aboriginal Legal Services of Toronto. I've been employed in my job for over 14 years at my agency. During that time, I've had a lot of experience working with the coroner's office.

I want to tell you that my agency has a spirit name. It is "Gaa kina gwii waabamaa dabwiwin," and it means "all those who seek the truth." It's important that we're here today to make our deputation, because over and over again I hear from our community members that they want to seek the truth about the deaths of their loved ones.

Aboriginal Legal Services of Toronto is a multi-service legal agency, and we provide a number of services to our community. I won't go through all the programs, but one of the programs that we offer is our legal representation program. In that role, we have represented many families at coroners' inquests.

We were also granted standing at the Goudge inquiry. We were in coalition with Deputy Grand Chief Alvin Fiddler with the Nishnawbe Aski Nation and participated throughout the public inquiry.

I am going to take this opportunity to name some of our lost members who have had coroners' inquests, because I feel that it's important to respect those families and those individuals. These are all the people whose families I've represented at coroners' inquests: James Jamieson, Benjamin Mitten, William Kitchkeesic, Martin King, Martine Ladouceur, Kenneth Coaster, Geronimo Fobister, Harvey Barkman, Raymond Dubois, Mary Fraser, Darren Fournier, Christopher Green, and Ricardo Wesley, whose inquest is currently taking place, as we sit, over in coroner's court, and we're currently waiting for coroners' inquests to run on the deaths of Martin Blackwind, Reggie Bushie, Ronald Fagan, Christopher Morrisseau and Byron Debassige. That's just in my office of three lawyers.

I want to point out to you that if you go to the website of the Office of the Chief Coroner and you look at the inquests that are scheduled for the month of March, you

will see that at least one fourth, or 25%, of the inquests that are listed are of aboriginal people and of clients of ALST. We are less than 2% of the population in Ontario, yet 25% of the deaths that are being inquested are of aboriginal people. I think that shows you why we find this bill very important and why we participated in the Goudge inquiry.

I talked to you about the people whom we had inquests on and I want to mention some of them whom we didn't have inquests on:

—Max Kakekagamick, who died in Kenora, who was left like a piece of garbage in an alleyway in the streets of Kenora. We asked for a coroner's inquest. It was denied; and

—Chief Sheila Childsforever, who died from medical conditions because she didn't get medevacked out of her community in time to save her. We asked for an inquest in that death, and that was denied.

I want to talk about Jordan Jacko. I've provided a picture; some of you have it. I have Marian Jacko behind me here, and she's Jordan's aunt. I'm going to spend some time talking about Jordan's case, because it's very important to us and we've worked for years trying to get an inquest into this boy's death.

April 25, 2005, started as a normal day for the Jacko family but ended in tragedy. Jordan Jacko started his day by attending class, as required by the law of this province, in Kenora. He was nine years old and, at the time, in grade 3. On this day at his school, they were hosting a hot dog lunch.

The school has in its care approximately 240 students from junior kindergarten to grade 8. Hot dog day was an event that occurred every second Wednesday at the school. It was a day when the school sold and served hot dogs to children during the lunch break and was used as a means to raise funds for the school. On this day, the hot dog served to Jordan Jacko ended his young life.

Upon receiving his hot dog and taking what appeared to be his first bite, he began to choke. His choking episode occurred while he was just a few feet away from his teacher. In his statement of the death investigation, the teacher indicated that he asked Jordan whether he was going to throw up and sent him to the washroom.

Jordan did what his teacher told him to do and he went to the washroom. The teacher indicated that he followed him into the washroom and that he finally recognized, when his hands moved from his mouth to his neck, that he was choking. The teacher said he attempted the Heimlich manoeuvre. The teacher was not certified or qualified any kind of CPR or first aid training. It's known that the teacher then told another student in elementary school to go get the principal. The principal was beckoned by a student, a young person, to come to the washroom, and that's when the principal took over and had to instruct the teacher to go call 911.

Jordan collapsed to the floor. The principal indicated that he attempted the Heimlich manoeuvre—again, someone else not qualified, with no current certificate in first aid training. Nine-one-one was called. When the am-

bulance arrived at the school, nobody had any kind of emergency response plan in place. The school didn't know what to do. There was no one waiting for the ambulance to show them where the washroom was and where the child was. When the officers went to the washroom there was no indication that they saw that the teachers were trying to save the life of the boy, that they were administering any CPR.

Jordan died. First they tried to transport him from the Kenora hospital to Winnipeg. There were difficulties in that, as there was no physician available to treat him at the time. Eventually he was transported to London Children's Hospital, and he was taken off life support.

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Jordan's father, Steve Jacko, would have liked to be here today. He's an OPP officer in the city of Kenora and he's taking care of two young children on his own, having lost his wife after Jordan died. He made his first request on June 1, 2005, for the coroner to hold an inquest into his son's death. This request was denied. On October 13, 2005, Mr. Jacko requested that the chief coroner review the regional coroner's decision to not hold an inquest. Dr. McLellan, at the time the chief coroner, refused to provide the family with a copy of the coroner's investigative brief. I'm going to talk about that later and the problems with that. He advised the family, "Go file a freedom of information request with the OPP office and the Kenora police to find out what happened with your child."

In a letter dated October 21, I, on behalf of Steve Jacko, requested the coroner's brief from the OPP. We received only part of the brief. It's quite thick. Half of the information is redacted under the Freedom of Information Act. We don't know what kind of investigation was done, who was interviewed and what statements were taken to determine whether there should be an inquest into this death.

Mr. Jacko submitted written submissions outlining his reasons for why an inquest should be held into his son's death, and he had a petition. Over 5,000 residents of Ontario signed the petition calling for an inquest into his child's death. Aboriginal and non-aboriginal people, doctors, teachers, public safety individuals and politicians all signed the petition. That petition was delivered to the coroner's office and was not taken into consideration, or it was taken into consideration and just ignored.

In my written submission to you, I've highlighted some of the statements that people put on the petition, and I'm just going to read a couple of them to you. Roger Valley, a member of Parliament for Kenora, said:

"I am writing to support the call for an inquest into the death of Jordan Jacko. This child died on April 29, 2005, while at school. Schools are charged with the care and safety of our children, and the death of any child while at school should warrant immediate attention and investigation."

Numerous people wrote similar things in the petition. I'm not going to read them all because I know I only have 20 minutes. The Chiefs of Ontario supported the

call, Nishnawbe Aski Nation supported the call, Ontario politicians supported the call and the mayor of Kenora supported the call for an inquest.

The comments in the petition—we had an online petition—were that people in Ontario didn't know that teachers aren't required to be certified in first aid. People don't know. If you look at that petition, and it's still online, people are shocked to hear that we don't have standards for how many kids you can supervise during the lunch hour and that our teachers or lunch room supervisors aren't required to have first aid training. These are all important issues that a coroner's jury can make recommendations about to make sure there's some legislative change in this area.

The request for the inquest was denied, and the chief coroner said, "The circumstances of Jordan's death do not meet the criteria as set out in section 20 of the Coroners Act." He didn't provide any further reasons. That was the response we got, after petitions and submissions and all those letters that were sent on behalf of Jordan's family.

I want to point out that Jordan is not the first child to die at school and the Jackos are not the first family to have to fight with the coroner's office to have an inquest called to examine the death of their child. I want to remind you that a private member's bill, Bill 150, entitled *An Act to amend the Coroners Act to require that more inquests be held and that jury recommendations be acted on*, received first reading by the Legislature in December 2001. This bill was presented to the Legislature following the struggle that the Neuts family faced in having a coroner call an inquest into the death of their son, Myles Neuts, in 1998. Myles was a 10-year-old boy in grade 5 who was found in the boys' washroom suspended by the neck from a coat hook on the back of a toilet cubicle in his school. The Neuts family fought a long time to have an inquest called into their son's death and, unlike the Jacko family, were eventually successful in their fight.

Today, on behalf of Jordan Jacko and his family, we ask that Bill 115 include a provision that requires the Office of the Chief Coroner to call an inquest whenever a child dies in the care of one of our schools. Today, on behalf of Jordan's family, we ask that the minister exercise his authority pursuant to section 22 of the current Coroners Act to direct the coroner to have an inquest into Jordan's death. We ask all parties here today to support that call for the inquest. I don't think anybody around this table wants to see another child die in one of our schools.

I want to talk quickly about Jacy Pierre. Jacy Pierre died in one of our institutions. He came to his death after obtaining methadone in one of our jails. The family sought standing at the coroner's inquest—it was a mandatory inquest—and the family raised issues about the selection of the jury. You heard the information from the Deputy Grand Chief about the jury roll issue. The family asked the chief coroner four questions: "Can you tell us who's on the jury, if there's any First Nations representation on the jury and whether the jury rolls in Thunder Bay comply with the Juries Act?" We received a re-

sponse from the coroner, who told us, "That's not my information. Go ask MAG." So we did that. We wrote to MAG and we said, "We want to know if the jury rolls in Thunder Bay comply with the Juries Act." Two days before the inquest was to commence, we got a letter from MAG telling us, "Go ask the coroner. That's his process." We're being told to go two different ways. The family filed a judicial review. We asked the coroner to hold down the inquest until the courts decide this issue. The coroner refused to postpone the inquest, proceeded without the family, and the family did not participate.

I want to tell you that my office filed three complaints with the Ombudsman's office of Ontario about the way the coroner system treats families. Mr. Marin is investigating those complaints and I'd ask that the committee members ask to speak to him about the status of his investigation. We're happy to provide the consents from the families so you can hear from him what the problems are with how the chief coroner's office communicates with families.

I echo Deputy Grand Chief Fiddler's submissions with respect to ensuring First Nation representation on the oversight council. I put in my submission the "poison pills." As Mr. Runciman said, there are some things that were slipped into the bill that weren't part of Goudge. Those poison pills are the removal of the mandatory inquest for natural deaths in jail—you heard from my colleague from the HIV clinic that you can die of natural causes in jail, but maybe your life could have been prolonged. We know we have horrendous health care in our institutions. Just like there are no doctors in remote communities, there are no doctors in our jails. Someone may have died of cancer in that jail, but maybe they could have lived two or three more years, and that's the type of thing a coroner's inquest can look at. The second poison pill is the removal of the minister's oversight ability to call an inquest. We can't support that removal from the Coroners Act. The bill, when it was introduced, was said to enhance accountability and oversight. We see the minister's ability to call an inquest as just one of those checks and balances that should remain in the legislation.

I just want to speak briefly about information sharing. I don't think that the bill goes far enough on information sharing. Under the current legislation and the amendment to the bill, it says that families can request information from the post-mortem report and the toxicology report. That's all they get; they get a coroner's statement. That doesn't answer the questions for the family. If you look at a coroner's file, it's massive. There are boxes and boxes of information. And all a family gets is a post-mortem report? Their questions aren't answered. Like what happened to Jordan Jacko, we had to do a freedom-of-information request. We didn't get the answers that we were looking for. Half of the information was redacted. We think that the act needs to say that families are entitled to the full coroner's investigation brief. That becomes important when you're filing an appeal to the coroner or the regional coroner to say why an inquest

should be called, because how do you know if they did their job? In Jordan's case, we heard from the regional coroner that he consulted with expert pediatric doctors. How do I know he didn't consult with Charles Smith? I don't know that, because I didn't get that information in the brief—because the coroner won't give that to us.

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Again, I echo Deputy Grand Chief Fiddler's comments with respect to the jury selection issue, and I want to take it a step further. Currently, the coroners' legislation allows for the constable to pick who a suitable juror should be for the inquest. That's done behind closed doors. We don't know what questions are asked, and the coroner won't share that information with us. We say that it shouldn't be a coroner's constable picking a jury, based on who that constable thinks is a suitable juror. We would ask that you put some thought to proper amendments to make sure that that process of the selection of the jury is more transparent and that the parties get to participate in that process.

I have some other comments, but I'll leave it at that.

The Chair (Mr. Lorenzo Berardinetti): There are actually a couple of minutes left, so we will take a run around the table to see if we can get some quick questions in from committee. We'll start with the Conservative Party.

Mr. Garfield Dunlop: I really appreciate your comments, Ms. Murray. There are a lot of questions we could ask, but I think your presentation covered a lot of territory. I hope we can take some of those recommendations very seriously, because you've brought a lot of things out today that we've been sort of hearing about, but the details came out today in your presentation, so thank you very much.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to Mr. Prue.

Mr. Michael Prue: I'm particularly disturbed by the number of coroners' inquests that are held on First Nations people, given that they make up 2% of the population. Is there any explanation? Is there a higher level of violence, a higher level of investigation that is required? What is the rationale?

Ms. Kimberly Murray: Because coroners' inquests are mandatory for in-custody deaths and our community is overrepresented in the institutions, we have a high number of people dying in jails. They're not violent deaths in the sense that there are people beating each other up and killing each other in jail; it's suicidal deaths, overdoses. We have drugs going in and out of the institutions and recommendations from juries about how to stop that not being implemented.

On the flip side, we don't have a lot of discretionary inquests called in our community. Whenever we want to deal with a social issue or a health issue and go to the chief coroner and have a discretionary inquest, we get turned down. Out of all those inquests that I read to you, out of the aboriginal ones, James Jamieson was the only one we've had that was a discretionary inquest. That took us three or four years of advocating on behalf of the

family and doing our new investigation to find out what the problems were, to give that piece of evidence to the coroner that we needed to have an inquest. And that evidence was that 911 dispatch wasn't working properly in the city of St. Catharines. That was the father who had to find out that information.

Mr. Michael Prue: In terms of—if I've got time—we've heard about Kenora, we've heard about north-western Ontario, where First Nations communities are not in the jury roll. They're just not called, they're not summoned, they're not allowed to participate—whatever. Is that the same across all of Ontario, or is that unique only to Kenora?

Ms. Kimberly Murray: We don't know because we've been asking MAG to give us that information, and they won't give us that.

Mr. Michael Prue: They won't.

Ms. Kimberly Murray: They won't share that information with us. We've asked for an inquiry, not a public inquiry, but an investigation of how big the problem is across Ontario, and that information won't be shared with us.

I can tell you that I've done many inquests; rarely do I see a First Nations person on the jury.

Mr. Michael Prue: Thank you.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the Liberal Party.

Mr. Dave Levac: Sago; sgeno. The gist of what you're looking at is to increase the visibility of First Nations to be read into the act that we're using, and the modifications that we're presenting, is it fair to say, don't quite go far enough, again, to provide us with that?

Ms. Kimberly Murray: Correct.

Mr. Dave Levac: The parliamentary assistant to the Minister of Aboriginal Affairs is sitting beside me, and he's made the commitment to me, as I requested, that he would share that with the minister to see if there's a dialogue that could be entered into between the Minister of Aboriginal Affairs and Minister Bartolucci to ensure that those concerns that are being raised by yourself and the previous presenter are front and centre to provide for that opportunity.

The remoteness of some of the communities has caused some of the concern with regard to—and we heard earlier the organization representing the coroners indicate that, although it's not perfect, in a perfect world the clause in here is to try to bring that even further out so that at least there's a connect in the community with somebody that does the investigation; and it's attached to a coroner, because there's a misunderstanding here that we're trying to make police officers coroners, and that's not the case. Is that another step that's progressive enough to start moving things forward?

Ms. Kimberly Murray: Yes, and that was something that I support in the legislation, allowing to have someone in the community do the coroner's investigation. I listened carefully to the questions of the coroners' association, because if you look at the Goudge report—and this was some of the evidence we presented—and

look at the different provinces and who a coroner is, they're not medical doctors. It's quite elitist to suggest that a community member in Kashechewan can't do a coroner's investigation or be trained to do one, that only doctors can do that. It's happening all over Canada and they do their job well.

Mr. Dave Levac: I'm hearing that you support the idea that this amendment that we have in the report is beneficial and a step forward.

Ms. Kimberly Murray: That's right.

Mr. Dave Levac: Thank you very much. We'll make sure that the record is shared down your way.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Ms. Murray, for your presentation.

PSYCHIATRIC PATIENT ADVOCATE OFFICE

The Chair (Mr. Lorenzo Berardinetti): We'll move back up, members of the committee, to the Psychiatric Patient Advocate Office. They're now here, so I would ask that they come forward.

Mr. Stanley Stylianos: Good afternoon, Mr. Chair and committee members.

The Chair (Mr. Lorenzo Berardinetti): Good afternoon.

Mr. Stanley Stylianos: We are here on behalf of the Psychiatric Patient Advocate Office. We are making recommendations to the committee on the proposed legislation from the vantage point of a mental health advocacy organization.

The Chair (Mr. Lorenzo Berardinetti): If you could just identify who you are for the purposes of Hansard.

Mr. Stanley Stylianos: I'm Stanley Stylianos, program manager with the Psychiatric Patient Advocate Office, and this is Linda Carey, also a program manager with our office.

To provide some background, our organization is an arm's-length program with the Ministry of Health and Long-Term Care. As an arm's-length program, we do not speak for the ministry, but we do express our own independent views as a mental health advocacy organization. We are quite concerned about issues that are impacting mental health consumers and in particular those individuals who find themselves in psychiatric facilities.

It's important to note that, historically, our office began in part because of the series of deaths that occurred at the then-Queen Street Mental Health Centre, and there were coroners' inquests as a result of those deaths. The coroners were, in those cases, critical of hospital policy. So here we are, nearly 26 years later, still grappling with the same issues that are as very much alive today as they were back then.

Our submission today—and we begin by saying that we applaud the effort to improve the death investigation system in Ontario, especially with respect to transparency and oversight and accountability mechanisms, and the incorporation of those mechanisms into the legislation. But we want to focus on three areas in particular that

affect the individuals we serve. One area has to do with the deaths of in-patients in psychiatric facilities who are held involuntarily by any means, and that could be under the authority of the mental disorder provisions of the Criminal Code, it could be as a forensic patient under order of a disposition of the Ontario Review Board, or it could be under the civil commitment laws of the Mental Health Act. But for any individual who is held involuntarily, we have concerns, and we'll make recommendations about the subject of inquests with respect to their deaths. We're also going to make recommendations with respect to the proposed oversight mechanisms. Although we applaud their inclusion, we think they can be strengthened by some of the recommendations we will make.

1530

Finally, we want to speak to the very specific set of circumstances surrounding the deaths of individuals who die while in restraint, either during restraint in hospital or immediately following a restraint episode.

With that, I'm going to turn the discussion over to my colleague, Linda Carey.

Ms. Linda Carey: As Mr. Stylianos indicated, there are a number of ways that an individual can become involuntary in a psychiatric facility. When a person becomes involuntary, they are extremely vulnerable. They may, in fact, have no recourse if they have a complaint or a problem with what is happening to them in the facility.

They are admitted to the facility and they lose control of their life. With the stroke of a pen, a physician can take away their right to leave, their right to manage their money, their right to make their treatment decisions and various other things. These are rights that you and I take for granted, and when you go into a psychiatric facility, those rights can be taken away. This makes the individual extremely vulnerable.

When an individual is admitted into a psychiatric facility, everyone assumes it's a safe place. You go to the hospital for assistance; you go to the hospital for help. Many families work long and hard to get their relative into the hospital for treatment. Imagine how they feel when that individual dies under difficult circumstances. At the best of times, a death for a family member is very difficult, but when it occurs in a place that is supposed to be safe, it is even more traumatic. The trauma is increased when you actually worked to get the person in there even though they may not have wanted to be admitted.

Families in this situation have many questions. They want to know why their relative died; they want to know the circumstances and they want to prevent that from happening to someone else's child, father, sister, brother or spouse. It is a very difficult issue, and the Psychiatric Patient Advocate Office's position is that inquests into deaths in psychiatric hospitals of anyone who is held there by the state or by a doctor's signature should be mandatory, and that these inquests should occur regardless of the circumstances.

The recommendation that we made was to follow the recommendations made for individuals in correctional

institutions that there should be mandatory inquests unless the person died of natural causes.

When you think about it, "natural causes" is a very unusual term. It's not defined in the legislation. An individual can die of natural causes, but one of the issues is, what brings on the natural causes? Sometimes something may have happened in the facility that may cause a heart attack; they may be taking very serious medications that can have very difficult ramifications and they may die of natural causes from that. So it can be often very difficult where natural causes are given as a result. Sometimes it's not an answer. You have an individual who is 26 years old and dies of a heart attack, and it can be very difficult for a family member to understand how that occurred in a facility where they were supposed to be safe.

It is our position that the fundamental vulnerability of these in-patients should be sufficient cause to hold a mandatory inquest where the coroner believes that the person's death may be due to natural causes. I would extend that to include the fact that we have to look at the reason for the natural causes when we look at whether or not an inquest should in fact be mandatory.

The other issue I wish to deal with is the oversight council. As Mr. Stylianos indicated, we do applaud the government for trying to bring some transparency and accountability to the death investigation process in the province of Ontario. Certainly, the oversight council and the accompanying complaints committee is one way of doing this.

As I indicated, the death of a loved one in a psychiatric facility is very difficult. Families want answers. If an inquest is not called by the coroner, they often go to the coroner and request that an inquest be called. This sometimes requires the family to commit a lot of money, and often they commit time and other resources in making that request. If the coroner refuses their request, then they can go to the chief coroner. Again, this often requires money and time. When the chief coroner refuses that request to have an inquest, that is a final decision and the families are left with little recourse, particularly if they are of limited resources.

It is our position that the oversight council should be able to review the decision of the chief coroner not to hold an inquest when there has been a request by family or a personal representative of the deceased person. This would allow for an impartial review of the decision of the chief coroner and hopefully will allow families to feel that their concerns have in fact been heard and considered seriously by someone. So it is one of our recommendations that the jurisdiction of the oversight council be included to review the decision of a chief coroner not to grant an inquest.

The other part I wanted to discuss was the complaints committee. It is very laudable that a complaints committee is being established to look at complaints where the powers and duties under section 28 are involved. These involve the roles of coroners, pathologists and other persons who may be working with the coroner or

pathologist. The complaints committee can review the complaint, but it does say that they are required to refer complaints about certain types of individuals to outside agencies. This puts an individual making a complaint in a very difficult situation. They may be talking to one organization about a particular part of the complaint and another organization about another part of the complaint. They may have a complaint about the entire process which may involve multiple persons. We recommend that the complaints committee jurisdiction be expanded to include a complaint about all of the individuals who are involved in the complaint. This would allow the individual making the complaint to have one entity to deal with instead of multiple entities, and it would also give the complaints committee a chance to have an overview of the situation that is involved, and they may be able to see something that individual organizations may not see as they are looking at the large picture. So our recommendation is that the committee have an expanded jurisdiction to include the ability to investigate all parts of a complaint and not just some parts of it.

Mr. Stanley Stylianos: I want to call to your attention the special circumstances of individuals who die in psychiatric facilities during or immediately following their restraint. We take our definition of restraint from the Mental Health Act, which defines "restrain" as to "place under control when necessary to prevent serious bodily harm to the patient or to another person by the minimal use of such force, mechanical means or chemicals as is reasonable having regard to the physical and mental condition of the patient."

In September and October of this year, the Psychiatric Patient Advocate Office was a party with standing at the inquest into the death of Jeffrey James, who was a patient at a tertiary care psychiatric facility and had been in four-point or mechanical restraint. The coroner's jury determined that he died of "acute thromboembolism in a man with medical restraint," although they noted he died of natural causes. There was a clear linkage in that death between thromboembolism, a blood clot to his lungs in this case, and the use of medical restraint. Out of that inquest, there came 66 recommendations, one of which, that we have included—we've appended it to our report at the end—has asked for mandatory hearings to be held whenever there is a death associated with the use of mechanical or physical restraint.

We acknowledge that the evidence that was presented at the inquest focused almost exclusively on the use of physical restraint, in this case Pinel restraints, which essentially tie the person to the bed. We are extending—and we believe that the legislation should take into account any form of restraint which might be used either separately or in concert with other forms of restraint.

The issue in terms of vulnerability: Individuals who are restrained are exceptionally vulnerable, because there are in fact no oversight mechanisms in place other than hospital policy, and in some cases there isn't hospital policy. The current emerging wisdom in the mental health field is that restraint should be viewed as a treat-

ment failure. Restraint is not a therapeutic intervention but a means to exert control over an individual and it carries with it significant risks, up to and including the death of that individual. As such—and we believe strongly in this—in cases of restraint-related deaths, mandatory hearings should take place, and these should not be a matter of discretion.

1540

We were fortunate in the James inquest that the presiding coroner, Dr. Lauwers, saw fit to hold a hearing into Mr. James's death, but we may not be so fortunate in other circumstances. We feel that there is a much higher level of scrutiny needed here and that the public interest is clearly at stake.

Those are our recommendations.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have about a minute and a half or so per party. We'll start with the NDP. Mr. Prue?

Mr. Michael Prue: Yes, thank you very much. In a minute and a half: The very first deputant we heard today was the HIV and AIDS Legal Clinic, and they made a compelling case to investigate all deaths that took place when people were incarcerated. You have made a pretty strong case to investigate all those where restraints were either being used or had been used. Do you also think that should be extended to people who are in psychiatric or hospital facilities? Should we be investigating all of those, or just those where restraints were used?

Mr. Stanley Stylianos: I think we made a case as well for the investigation of people who are held involuntarily, the reason being that in circumstances where people are held against their will, their rights have been significantly abrogated. They're even more vulnerable than someone who might be there on a voluntary basis and has the option of leaving the facility. So while it might be in the clinical team's judgment or the hospital's judgment that you are there and it is in your best interests to remain there, we think you're still in a very vulnerable position. We would say yes. We would recommend that inquests be held into the deaths of all involuntarily held individuals, no matter on what authority they're held.

I guess we are striving toward a kind of parity with the correctional system, because we're essentially dealing with deaths in custody. We may not think of a psychiatric institution as being a place of custody, but in very real terms it is a place of custody. Things that are done from the vantage point of best interests don't always work out as the best interests from the patient's or consumer's perspective.

Mr. Michael Prue: Okay. Thank you.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the Liberal Party. Mr. Levac?

Mr. Dave Levac: First, thank you so much to the both of you and the rest of the staff for your advocacy. I just wanted to confirm a couple of quick points; one, that there's a concern about clarity and accountability. Inside of the bill, there's the annual report that's going to be submitted directly to the minister. It can be actually increased by the minister's own word, or the committee

itself can do a proactive report. So I just wanted to acknowledge that there was some work inside of that that hasn't been mentioned yet in the deputations.

To confirm, as well: For all youth in custody there will be mandatory inquests. For anyone who's in the custody of police, there are mandatory inquests. For anyone else, in any other institution, there must be an investigation, with the potential for an inquest at the decision of the coroner. It almost touches exactly the same way that you're advocating, Ms. Carey, when you said that if it's a natural death, then the decision is, "We don't need to do this." Somebody's got to make that decision.

I think what I'm hearing is that there's a little bit of a concern in the scope of what can happen in the declaration of "natural death." Is that a fair assumption?

As I wrap up, just to simply say: There are lots of staff and people here who are taking copious notes. They're paying attention, and this is on Hansard. Your deputation will be taken seriously by the minister.

If you'd like to comment, go on.

Ms. Linda Carey: Yes, I do have a comment. "Natural causes" is a very broad area. You can die of natural causes even though they may have been precipitated by something unusual or something that should not have happened. A lot of times, families are left with no information and they're wondering what happened to their individual: "Yes, he died of a heart attack, but he was 26 years old. He didn't have any kind of a heart condition. What precipitated it? He died in seclusion. They'd given him a massive dose of medication just about two hours before he died." There needs to be something that says, "Yes, heart attacks are natural causes. But what happened to give him the heart attack?" That's the concern that I have.

Mr. Stanley Stylianos: To add, I think as I pointed out earlier, Mr. James's death was attributed to natural causes. There was a fairly contentious discussion around the inclusion of "a man with mechanical restraint" or physical restraints, to paraphrase. So in that case, to say that Mr. James died of natural causes could have excluded—just taking that single fact—him from the opportunity of an inquest, which would have disadvantaged not only his memory, if you will, but it would have disadvantaged the entire system, because I think the number of recommendations speaks for the importance of that inquest to the system at large.

Mr. Dave Levac: Thank you, Mr. Chairman.

The Chair (Mr. Lorenzo Berardinetti): Mr. Dunlop.

Mr. Garfield Dunlop: I have no questions, Mr. Chair.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation.

TIM FARLOW

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next deputation: Mr. Tim Farlow.

Good afternoon, and welcome.

Mr. Tim Farlow: Good afternoon, Mr. Chair.

The Chair (Mr. Lorenzo Berardinetti): You have 20 minutes, and in any time that's not used we will ask questions on a rotating basis.

Mr. Tim Farlow: Thank you. My name is Timothy Farlow, and I live in Mississauga. I am the financial controller of a company by profession.

It was not long ago that if someone had told me that I'd be here today to address this distinguished group, I would not have understood. But events of the past months have made me somewhat of an authority, and I believe I have a valid story to tell you today. Let me begin.

The Honourable Stephen Goudge presided over the Inquiry into Pediatric Forensic Pathology in Ontario. In my opinion, Mr. Goudge's recommendations and Bill 115 are generally well geared to address concerns in the area of pediatric forensic pathology.

However, as reprehensible as Dr. Smith's actions were, I submit that what was uncovered by Mr. Goudge in the area of pediatric forensic pathology was only a symptom of the real problem at the Office of the Chief Coroner. As a result, Bill 115 does not address, nor will it correct, the root cause. Without correcting the root cause, surely in the not-too-distant future, in another area of the OCC, we will again have to ask ourselves, "How could the OCC have failed us so badly?" and again we'll be back here to address amendments to the Coroners Act.

I'll summarize my presentation. On page 1 of my report, I list my four key objectives. Number one: I will present my case that the issues uncovered by Mr. Goudge in the area of pediatric forensic pathology do indeed continue to exist elsewhere, even today, in the OCC. Once it is accepted that these issues are not isolated to the area of pediatric forensic pathology and indeed permeate throughout the OCC, I will identify what I feel is the root problem. I will then prompt a quick discussion as to whether the authors of Bill 115 have clearly defined and articulated precisely what root problems they are attempting to correct and how Bill 115 will correct those. I will attempt to compare, if possible, my identified root problems against the authors' root problems. Then, based on my identified problems, I will propose changes to bolster Bill 115.

Item 1: Do the issues uncovered by Mr. Goudge in the area of pediatric forensic pathology exist elsewhere in the OCC? I believe we must feel intuitively that it does not make sense that, under the leadership of many of the same senior officials whom Mr. Goudge was so critical of, one area of the OCC could be so badly managed and yet all other areas of the OCC, under those same senior officials, could be managed with acceptable medical competence, management oversight and integrity. It's intuitive that that could not be the case.

1550

I will now present my experience with the Office of the Chief Coroner as further evidence that the issues uncovered by Mr. Goudge at the OCC with respect to its handling of pediatric forensic pathology do indeed permeate into other areas. I will use my example. Please

bear with me; this will only take a couple of minutes. The toughest part of this was to decide what key things to leave out. Believe me, I could speak to you for hours and hours, but I'm going to try to do this in five minutes.

There are many similarities between my story and those reviewed by Mr. Goudge. Here are a few. In our case Deputy Chief Coroner Dr. Jim Cairns had a personal and professional relationship with the physician in question, similar to the "symbiotic relationship" that Mr. Goudge states that Dr. Cairns had with the disgraced Dr. Smith. It always seemed odd to me that Dr. Cairns, who was deputy chief coroner, would take such an involved role in our case. The second point: Mr. Goudge states that the OCC's conclusions "typically gave no elaboration of either a reasoning process or supporting literature that might provide a persuasive connection between facts and conclusion." Further, the OCC "failed either to account for contradictory evidence in arriving at his opinion or to consider adjusting his opinion to take new information into account."

Ladies and gentlemen, I can tell you that Judge Goudge is far more diplomatic than I. I would use different words to describe that behaviour.

Parties affected by the OCC's lack of professionalism wrote letters which Mr. Goudge stated "were well researched and well reasoned." Mr. Goudge states that, "given what we now know, many of the concerns about Dr. Smith, Dr. Cairns, and the OCC were legitimate." In our case the OCC report acknowledges that "material provided by the parents is generally of a high degree of sophistication and accuracy." That's how the OCC report referred to my and my wife's communication.

Mr. Goudge reports that "despite knowing that he provided inaccurate information about the OCC review, Dr. Cairns did not take any steps to correct the misunderstandings." These are pretty serious charges put very diplomatically by Mr. Goudge.

Here is my story. As I say, the toughest part is to condense this into a couple of minutes. My daughter Annie died on August 12, 2005, and as my wife Barbara and I reflected on events surrounding her death, we began to piece together many inconsistencies in the stories we had been told. We ordered Annie's medical records from the hospital.

What we discovered, among many other issues, were documented serious violations in the administration of controlled narcotics, and incredibly, the computerized medication report which would indicate which controlled narcotics were administered to Annie was missing. As we know, there are very long-established and strict rules governing the use and record-keeping of controlled narcotics, and the fact that the hospital could claim that such a computerized report could go missing and that it had no backups of such records added largely to the already numerous list of inconsistencies.

When we first met Dr. Cairns in July 2006, we informed him of our very grave concerns about the missing narcotics documents and that we were worried and suspicious that unauthorized doses of narcotics may have

been administered to Annie. He assured us that among other actions he would perform a forensic audit of the narcotics cabinet to address our concerns. At that point the coroner's pediatric death review committee began its work and, Dr. Cairns told us, would have a report out in two or three months. With much respectful prodding, and after nine months, we finally received the draft report in April 2007 and were given the opportunity to provide comments.

A pillar of that report, if you want to look to page 10 of my output, says, "The forensic audit that was suggested in recommendation 6, page 15, has now been carried out under the supervision of the chief coroner's office. It indicates that all of the narcotics ... on the dates in question, have been accounted for, providing further evidence that no active steps were taken to bring about Annie's death."

Now, that's a pretty strong endorsement from our coroner. When informed of this, I said, "Dr. Cairns, we're pleased that you can account for all the narcotics, as you claim. Will you tell us what narcotics were administered?" Incredibly, Dr. Cairns looked me in the eye and answered, "I do not have to tell you that." We submitted a list of critical smoking-gun or show-stopping questions which, if unanswered, would leave the report fatally flawed. Without addressing our questions, Dr. Cairns tersely wrote that the "report stands as it is." I have that on page 11.

Subsequently, we received, through freedom-of-information legislation, a copy of the hospital's narcotic and controlled-drug administration record and audit. This certainly would have been the document upon which Dr. Cairns based his forensic audit and upon which he gave his strong endorsement. What it revealed was shocking. On page 15, you'll see a copy of it. A lethal dose of Fentanyl was signed out under Annie's name and none was returned. Nowhere in Annie's medical records is the use of this narcotic prescribed. Incredibly, the PDRC report is silent on this unauthorized administration of a lethal dose of a narcotic. In fact, the OCC relies on its forensic audit to claim that no active steps were taken to bring about Annie's death. This silence on the Fentanyl administration calls into question the validity of the entire PDRC report and the integrity of its authors.

The assertion that I read is a cornerstone of the report. Until the Fentanyl issue is addressed and explained, the only conclusion is that the authors of the PDRC report are intentionally misleading the reader to an improper conclusion.

We applied, under section 18.2, for further information—I'm running out of time, and I'm going to have to go a little bit faster. We asked for a copy of his forensic audit report. The response was, "Get it from the hospital." The hospital wrote, in the letters in here, that actually it's not a forensic audit; it was a forensic reconciliation. So we're getting back-and-forth talk.

A second item we asked for was Dr. Cairns's notes of a meeting that he referenced. The reply was that he had no notes. Ladies and gentlemen, I can tell you that I

know for a fact, and I have documented proof, that what Dr. Cairns wrote was the complete opposite of the truth. Dr. Cairns has no notes to support his conclusion.

Finally, on a second request, Dr. McCallum, who is now the chief coroner, gave us a very brief note which the lady before me had noted, which gave no information that we could count on about the cause, nature and means of our daughter's death. What we received under section 18.2 was irrelevant and nonsense.

To this day, I have the justifiably strong perception that the Office of the Chief Coroner is lacking in integrity. I do not see how this can change unless or until the chief coroner addresses the Fentanyl issue.

Once it is accepted that these issues permeate through the OCC, I will identify the root problem. I am going to say that the problem is that the Office of the Chief Coroner of Ontario has extensive authority but without an effective arm's-length overseeing body to prevent and detect unethical behaviour and/or slippages in medical competence. I will skip some of the results that we know have had catastrophic consequences.

I don't believe we have time to know if the authors of Bill 115 have articulated the problem that they are trying to correct with Bill 115, and I'd be very pleased if someone could direct me to that—if they have clearly articulated what it is they are trying to fix.

1600

Based on my identified root problem, I will propose changes to bolster Bill 115. The thrust of my recommendations is to ensure that the integrity of the OCC is never again so justifiably challenged. Ontario must be a leader in openness and must have a zero-tolerance policy for unprofessional behaviour, with a sound mechanism in place to prevent and detect unprofessional conduct. The complaints committee must include members of the public, preferably without medical experience. These public members would not be members of the death investigation oversight council and would be hired on staggered, fixed-term contracts. This would ensure their independence and also improve the public's real and perceived perception of integrity within the OCC.

As a financial controller, I deal with checks and balances all the time. These checks and balances that I would ask you to ensure are added to Bill 115 would prevent, detect and report upon improper behaviour. We would have zero tolerance for a breach in the sacred trust between the coroner's office and the public—more or less a hot-stove rule, where if anyone touches that hot stove, regardless of who they are, they are burned. Ultimately, I ask you to bolster the mandate of the complaints committee and the role of its chair.

Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation. We have approximately six minutes, so I'd say two minutes per party.

Mr. Tim Farlow: I looked at that clock. I thought there was one minute left.

The Chair (Mr. Lorenzo Berardinetti): Okay. Do you want to continue on for a few more minutes?

Mr. Tim Farlow: Well, maybe if I could just for one more minute, I would like to go back to my point number 2. Once it is accepted that the issues permeate through the OCC, I will identify the root problem. I will again say that the problem—not the symptom, but the problem—is that the Office of the Chief Coroner has extensive authority but without an effective arm's-length overseeing body to prevent and detect unethical behaviour and/or slippages in medical competence. The result is that internal issues which would reflect badly on the OCC have been contained within the OCC at the expense of others, with the documented catastrophic consequences we've seen.

As evidenced by Mr. Goudge's reference to "knowing that he provided inaccurate information" for whatever reasons, individuals at the OCC have been allowed to decide when to tell the truth. They have been allowed to override the OCC's mandate to perform high-quality death investigations, and the result is that deaths have been overlooked, have been concealed and have been ignored. Many families live with the perception, real or perceived, often quite rightfully, that they do not have the full truth of their loved one's death. As we've seen, innocent people have been wrongfully accused, some convicted and some sent to prison. Likely some guilty parties have escaped charges, and the public has justifiably lost confidence in the OCC.

Mr. Chair, thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That brings us down to about a minute and a half or so, starting with the Liberal Party.

Mr. David Zimmer: Thank you very much, Mr. Farlow. It's a difficult thing for you to come here and relive these events, but you've done that and you've given us some recommendations. I know that I and my colleagues on this side of the table, and I expect my colleagues on the other side of the table, will reflect on them and give them the consideration that you've asked us to give them. Thank you.

Mr. Tim Farlow: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Mr. Dunlop?

Mr. Garfield Dunlop: Thank you very much, Mr. Farlow—and Mrs. Farlow is here as well today. Our office has been dealing with this for well over a year now. It takes a lot of courage for a family to come here, wanting to bring closure to a very, very sad part of their lives. I've met the Farlow family, and they're just an incredible family. The reason they're here is because they love their children and they want to make sure that what happened to their daughter doesn't happen to anybody else's child. So I applaud your courage. If we can do anything with these recommendations to make this bill better, we should be doing it.

Mr. Tim Farlow: That is the purpose of our trip here and our journey, to ensure that this does not happen to any other Ontarians.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to Mr. Prue.

Mr. Michael Prue: I echo what my colleagues here in the other parties have said, but I just want to ask one question because this troubles me: that the coroner said, "I do not have to tell you that."

Mr. Tim Farlow: Yes, sir. That's a direct quote.

Mr. Michael Prue: Did you ever find out information from them? Did they ever, in the history, end up telling you anything about the death of your daughter, the questions that you had raised?

Mr. Tim Farlow: No. I asked the coroner—we had given him many questions. I said, "Sir, will you address my questions in one of three ways?" because he remained silent on most of my—I asked him, "One, will you answer my question? Number two, will you tell me that you do not know the answer and let me know if you can obtain it? And number three, that you will not answer my question, and please tell me why you won't?" He told me as well that, no, he does not have to address my questions in that manner.

Mr. Michael Prue: So you as a grieving parent were never able to get satisfaction from the coroner's office or anybody from the coroner's office to answer what must have been one of the most traumatic experiences of your life.

Mr. Tim Farlow: Yes, sir. That is correct.

The Chair (Mr. Lorenzo Berardinetti): Thank you for coming out today.

JOHN SNOW

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next deputation, Mr. John Snow.

Good afternoon, and welcome.

Mr. John Snow: My name is John Snow. I'm originally from Sudbury. I presently live near Little Current, on Manitoulin Island. Thank you for the opportunity to speak.

My supporting documents contain some written comments which describe the hurdles I have encountered in trying to access a public forum in which to determine the factors involved in the double workplace fatality which claimed the life of my wife, Kathy Snow, and her colleague Cindy Benoit. The accident occurred in 2001. According to the WSIB, the largest single cause of traumatic workplace death in Ontario is motor vehicle accidents.

The reference material which you have in front of you consists of my modified presentation, and beneath that is my original presentation, which has more information. These two pretty much go together. I will be reading just the modified presentation. Beneath that is a list of references, and the references are numbered in red ink that correspond to the numbers 1 to 17 on the list that you have. There will not be time, I'm sure, to flip from reference to reference, given that there's only 20 minutes.

I ask you to consider the following two changes to Bill 115: that a section be added, the intent of which will be that any workplace fatality which occurs where the workplace is a roadway will be subject to a coroner's

inquest in the same manner as section 10 of the act with respect to mining and construction facilities. I recommend that the proposed death investigation oversight council serve solely as an advisory council to the minister and that the minister's responsibility remain as written in the act.

It is reasonable for the minister to have the best resources and expertise available to assist in the decision-making process. In the operation of the system, there are those who have been entrusted with the guardianship of the citizens of the province of Ontario. I see the police and the team within the Office of the Chief Coroner in that role. But in addition, others have been entrusted with the responsibility of overseeing this process to ensure that there has been no betrayal of this stewardship. This responsibility should remain with the minister, but with the assistance of the expertise found in the council.

The difficulty I have with the proposed amendment in Bill 115 is that while the minister might be at arm's length from the chief coroner, his or her decisions would be beyond arm's length of any judicial review process. It is wise, prudent and right to take steps to ensure that the integrity of the system stands above reproach, but the minister ought not to contract out ministerial responsibility in the process. The minister must ultimately be responsible to the House.

1610

I would like to comment on the written presentation contained in the package, and ask you to bear in mind that my efforts began in April 2002 and continued until March 2008 with the final letters, found in reference 11, which were accompanied by supporting documents, the remaining references, 12 to 16.

I have attempted over a six-year period to access a public forum in which to examine the circumstances of the accident which killed my wife and her colleague. By "a public forum" I mean a place where, in part, those who have conducted the evidence-based inquiry which resulted in a determination of the cause of the accident will be compelled to provide evidence, testify under oath and be subject to cross-examination.

My experience has proven to me that it is easier to access this process if the issue concerns something as trivial as a traffic ticket than it is for workplace fatalities where the workplace is the highway.

I would like you to note that because there is no readily available public forum, the TTCIR, which is the detailed investigation report, was not provided until 17 months after the accident. My efforts to access witness statements under FOI were denied, and they were not provided until five-plus years after the accident, and only as part of the minister's submission in court proceedings. I attended three private meetings with representatives of the coroner's office. I attended one private meeting with the Minister of Community Safety and Correctional Services. I initiated judicial proceedings requesting a review of the decisions of the chief coroner and the Minister of Community Safety and Correctional Services in the Ontario Superior Court of Justice, Divisional Court.

With respect to the investigative reports, the OPP would not identify the specific pieces of evidence which were used in the determination of positions of vehicles at impact. The TTCIR from the Ontario Provincial Police did not contain an analysis of skid mark evidence. This was also true of a review of the accident by the Peel Regional Police. The OPP declined to answer questions subsequent to a meeting which occurred in April 2002. At the private meeting of March 23, 2005, no answer was given regarding the concerns I raised over the skid mark evidence. The Peel report contained statements regarding sight obstructions even though the investigating officers did not visit the scene of the accident. The Peel report contains contradictory statements regarding sight obstructions.

Both the OPP report and the Peel report do not meet the standard for evidence-based inquiry which is described by the Ministry of Education in its science curricula. I taught science at a school in Sudbury, Marymount college, from 1969 to 2000. I was part of that science department. The Ontario science curricula are consistent with those found in ministries of education throughout Canada and, I would add, probably throughout the world—universally accepted, respected, evidence-based inquiry process.

With respect to the judicial review, the court proceedings did not provide a forum in which witnesses could be called to testify and be subject to cross-examination. The court judgment did not address the absence of skid mark evidence. The court judgment did not assess the merits of the interpretation of evidence. It deferred to the discretionary powers of the chief coroner and the minister.

The court judgment ruled the investigative process to be thorough, a process which could not be accepted in legitimate and universally recognized evidence-based investigation. "Thorough," to me, means painstakingly adhering to a standard. If this was thorough, a police investigation which ignored fingerprints at a crime scene or ignored DNA evidence in sexual assault would be thorough.

I would like to comment on the process of science and the importance of an unbending commitment to that process by referring to Galileo Galilei. Albert Einstein has called Galileo the father of modern science. Stephen Hawking believes him to bear more of the responsibility for the birth of modern science than anybody else. His astronomical observations led him to draw what could be called, for the times, radical conclusions about planetary systems. By the standards of his time, he was often willing to change his views in accordance with observation. This willingness is an essential characteristic of the process of science, and highlights the critical importance of observation. Contrast that with some philosophers of the time, who were so entrenched with or blinded by traditional thinking that they refused to even look through the telescope.

If we examine the letters to five individuals found in reference 10—and when I talk about letter 1, I mean my

letter plus the response. You'll see that there is a sixth letter there, but it's not relevant to what I'm trying to say. You can see that each was asked to reconsider conclusions about the accident in light of very specific evidence, namely, skid mark evidence, which had not been taken into consideration by the investigating officers. With the exception of the second response, no one did.

Reference 11 consists of letters to the present Minister of Community Safety and Correctional Services and the Premier. These letters were accompanied by references 12 to 16. I asked for their intervention. The honourable minister responded in the negative and the Premier responded by saying that he had asked for copies of correspondence. I have heard nothing further from the Premier. My request is dated March 25, 2008—over one year ago. Truth delayed is truth denied.

The real brutality of workplace deaths is shown in these pictures. This is my wife's car and this is the transport truck that struck her car. The voices of Kathy Snow and Cindy Benoit were silenced forever by this accident, but there is a voice that can speak for them, and that voice—the physical evidence left at the scene, the skid marks—says, "This is what happened," and I asked, "Let this voice speak for them." With one exception, those in whom we place trust said, "We don't care."

The honourable minister states that the purpose of this legislation is to correct what is wrong in the death investigation system. This legislation does not address the largest single cause of traumatic workplace deaths in the province of Ontario. If this accident were to occur tomorrow, I could be here eight years from now saying the same thing.

The honourable minister also states that the system cannot turn a deaf ear against legitimate concerns over how an investigation was handled—as it is doing now, I might add. Current legislation allows the minister to exercise his discretionary powers right now to address legitimate concerns. But that no other minister has ever done so is no justification. There is always one pioneer who has what it takes and sets a new standard for doing the right thing.

I'd like to tell you of an experience I had on November 11, 2008. I'm going to put a poppy on to tell you this. The experience occurred at the Sudbury Arena—if you look at reference 17, the very last one in that package. This is the program for the day, and I would like you to note what it says at the bottom of that. These are from our veterans. The purpose is "to rededicate ourselves in memory of those who paid the supreme sacrifice for freedom and truth." Traditionally, at this assembly, one of the veterans, Lloyd Hartley, stands at the end and recites "In Flanders Fields." On this day, he walked to the podium, stood at attention and recited, from memory, In Flanders Fields.

To you from failing hands we throw
The torch; be yours to hold it high.
If ye break faith with us who die,
We shall not sleep,
though poppies grow....

What veteran Hartley did then was, he moved away from the dais, he stood on that podium and he faced the people in the Sudbury Arena opposite him. He waved to them, he stood at attention and he saluted them. Then he turned slightly to the next section in the Sudbury Arena and he waved to them, stood at attention and saluted. He did that to every section in the Sudbury Arena, and when he was finished, he walked proudly back to join his veterans who were standing there, and do you know what we did? We all stood up, keeping in mind that he saluted us. We applauded as he walked back. We got him; he got us as a community. We understand what this is about.

1620

I would like to tell you one last thing, if I could. My friend Steve—Steve's my legal counsel. This has been a long, long journey, and we've had many meetings. At one of those meetings after we were frustrated at every turn, he said to me, "You know, John, the word on the street in Sudbury is that you don't get it." I want to say to anyone who might have those thoughts, including any of the police who were involved in this, anyone in the office of the coroner, any of the politicians and any of the bureaucrats—and I say this to the current minister and I say this to the Premier of this province, and I speak as a bereaved husband—this is the lady who was killed. I speak as a father who has seen his children suffer. I speak as a grandfather who knows that his grandchildren will never feel the warmth of their grandmother's arms around them. I just want you to know that I do get it. On behalf of the innocent people who feel the sting of your indifference to the truth, I ask you: Why don't you get it?

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Snow. We have about a minute or so per party. We'll start with the Conservatives. Mr. Dunlop.

Mr. Garfield Dunlop: Mr. Snow, I don't really know what to say after your presentation. Like Mr. Farlow before you, it took a lot of courage for you to come here and talk about the challenges you've had, the fight you've had for the past eight years. I'll take some time to go over in much more detail the presentation you made, but I want to thank you for being here today.

Mr. John Snow: Thank you.

The Chair (Mr. Lorenzo Berardinetti): To the NDP. Mr. Prue.

Mr. Michael Prue: I can only say the same thing. The legislation—and we are in the process of changing it—gives the minister the extraordinary opportunity of directing an inquest even when no one else wants to. In your case, it is your contention, and I believe with all my heart that that's what you believe, that the minister has failed you, because the minister has not done what the minister should have done.

Mr. John Snow: There were two cases here. When the Honourable Monte Kwinter was minister, I did exercise my rights and ask him to direct the chief coroner to call an inquest, and his declination of that is what prompted my request for a judicial review. As far as I understand, that has never happened in the province before. I have exhausted that opportunity. Currently, I

have rewritten Minister Bartolucci with the same request. That was in March 2008. Those letters are referenced in the package that you have. The correspondence is there.

Mr. Michael Prue: And you yourself are from Sudbury, so he would be your member of provincial Parliament as well.

Mr. John Snow: At the time. Now I'm living on Manitoulin Island, and it would be Mr. Brown.

Mr. Michael Prue: I see his letter—I've tried to keep up, but you have a lot of material here—but he just simply declines. Should there be something else in the act that gives another process, should a minister decline? Should you have the right to go to cabinet, to the courts, to a judicial review body? Should there be something else?

Mr. John Snow: How do you legislate a dedication and commitment to the truth?

Mr. Michael Prue: That's an excellent question. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll got the Liberal Party, Mr. Zimmer.

Mr. David Zimmer: I just want to understand this. When you were disappointed or felt that the initial investigation was incomplete or not done properly, you hired a lawyer, Steve—

Mr. John Snow: Well, yes—

Mr. David Zimmer: Just a second. You took that decision for a judicial review. That's in front of three judges.

Mr. John Snow: Yes.

Mr. David Zimmer: The three judges, after hearing from the various lawyers and so on—their decision was that the case in fact had been thoroughly investigated?

Mr. John Snow: Yes, that's correct. Their decision is reference 4 here.

Mr. David Zimmer: So there was a Superior Court of Ontario three-judge panel that reviewed the whole matter?

Mr. John Snow: Absolutely.

Mr. David Zimmer: All right, thank you very much.

The Chair (Mr. Lorenzo Berardinetti): On behalf of the committee, I want to thank you, Mr. Snow, for coming out today and for your presentation.

REGISTERED NURSES ASSOCIATION OF ONTARIO

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next presentation, which is the Registered Nurses Association of Ontario. I have Wendy Fucile—I hope I pronounced that properly.

Members of committee, there's been a request to take a photo. Someone's going to take a photo of her.

Mr. Dave Levac: Unanimous consent—

The Chair (Mr. Lorenzo Berardinetti): Is that okay with everybody? It will involve a photo of her presenting, not of us, I think.

Mr. Dave Levac: It's not the practice, but my understanding is that we just need to have the consensus to say that it's okay. Is that correct?

The Chair (Mr. Lorenzo Berardinetti): I'm just asking if anyone objects to that. No? Okay. Just make sure you exclude Mr. Levac from the pictures.

Interjection.

The Chair (Mr. Lorenzo Berardinetti): No, the deputant has asked.

Good afternoon, and welcome to the committee. You have 20 minutes to speak. Any time that you don't use in your speech will be taken up probably with questions. Welcome again, and you can begin by identifying yourself for Hansard for our records.

Ms. Wendy Fucile: Thank you, Mr. Chairman. My name is Wendy Fucile, and I'm the president of the Registered Nurses Association of Ontario. With me today is Kim Jarvi, a senior economist at RNAO.

We are the professional organization representing registered nurses who practise in all roles and all sectors across this province. Our mandate is to advocate for healthy public policy and for the role of registered nurses in enhancing the health of all Ontarians. We welcome this opportunity to present to the Standing Committee on Justice Policy our recommendations on Bill 115, the Coroners Amendment Act.

Overall, RNAO is very supportive of Bill 115, which addresses many of the recommendations of the Goudge Inquiry into Pediatric Forensic Pathology in Ontario. This legislation will go a long way towards restoring confidence in the professionalism of forensic pathology in Ontario and to addressing the systemic problems identified by Justice Goudge with respect to oversight, accountability and transparency.

As someone who has spent considerable time watching and appearing before coroners' inquests, I am well able to say to you that Bill 115 is on the right track. RNAO suggests that the bill would benefit from an amendment to provide greater ministerial responsibility and oversight, and I will address that issue in a few moments.

Bill 115 has its genesis in the Goudge commission and the case of Dr. Charles Smith. This was a situation that must never be repeated, and for that reason alone, Bill 115 deserves all our support.

For nurses, it hits close to home because of the Susan Nelles case. As it turns out, Dr. Smith was involved in that controversy in 1981, which surrounded the baby deaths at the Hospital for Sick Children here in Toronto. Investigation of those deaths led to charges of murder being laid against Susan Nelles, a registered nurse. Those charges were eventually dismissed in court. Ms. Nelles subsequently recovered her legal costs, but each and every one of us here today knows that nothing could compensate Susan Nelles or her family for the ordeal they suffered. Furthermore, the case was an assault on the nursing profession as a whole.

Justice Goudge's final report, released on October 1, 2008, was a scathing indictment of the Ontario system. Questions had been raised about the quality of Dr. Smith's forensic pathology work for years, without any effective systemic response or effective oversight. By his

own belated reckoning, Dr. Smith's forensic pathology training was woefully inadequate. In fact, there had been warning signs as early as 1991, when a trial judge severely rebuked Dr. Smith for his methodology and conclusions, but it was not until more than a decade later, in 2003, that the Office of the Chief Coroner of Ontario finally stopped Dr. Smith from performing any coroner's warrant autopsies.

1630

Justice Goudge painted a picture of broad systemic failure, and his 169 recommendations addressed the entire spectrum of forensic pathology, not just pediatric forensic pathology. Bill 115 picks up where Justice Goudge left off, with an ambitious program to restore the badly shaken public confidence in Ontario's forensic pathology system and to strengthen both professionalism and accountability.

Key elements of the bill that RNAO is fully supportive of include:

- the establishment of an Ontario forensic pathology service to facilitate the provision of pathologists' services. The chief forensic pathologist, appointed by cabinet, must maintain a register of pathologists who may serve under the act;

- establishing a death investigation oversight council to oversee and advise the chief coroner and the chief forensic pathologist;

- providing for a complaints committee comprised of DIOC members, where anyone can make a complaint about a coroner or a pathologist and each complaint would be handled directly by the complaints committee; and

- amending section 16 of the act to allow the chief coroner to delegate investigative powers and duties of a coroner to another person. Currently, only a police officer or a physician can be delegated a coroner's investigative powers. As Justice Goudge pointed out in recommendation 157, there will be appropriate cases where investigative responsibilities could be delegated to health care professionals and others with specialized skills. Nurse practitioners and registered nurses in this province do find themselves practising in circumstances where taking charge of a body or performing other tasks is not only appropriate and well within their education and expertise, but is also completely necessary in the absence of a coroner. RNAO strongly supports the wording in Bill 115 that allows delegation, in appropriate cases, to nurse practitioners and registered nurses.

Where RNAO disagrees with Bill 115 is in its removal of the minister's authority to order an inquest. A minister would only use this power in rare instances, but it is a democratic check against arbitrary refusal by a coroner to hold an inquest. Bill 115 concentrates considerable power in the DIOC. Retaining the safeguard and political accountability of ministerial authority to order an inquest is entirely appropriate.

When the cause of death is unknown, families need to learn to the fullest extent possible what caused the death of their loved one. You heard prior to my presentation

testimony to that effect in words that I can't duplicate here. Society also has an interest in knowing what caused deaths, so that it can reduce avoidable deaths in the future.

Bill 115 is all about improving oversight of the overseers to ensure there will never again be a Dr. Charles Smith in this province. Overseers are human and capable of making mistakes, just like everyone else; pathology, like all sciences, is continually evolving, and the forensic task is not a simple one. Some practitioners and their supervisors understand better than others the limitation of the science and the limitations of their own knowledge. Maintaining the minister's right to order an inquest would provide another safeguard for those who believe they have been unfairly denied an inquest and seek answers to their questions. Political accountability, which includes making public the reports of the oversight council and the complaints committee, is essential if we are to have the transparency, oversight and accountability we all seek from Bill 115.

In conclusion, Bill 115 is a positive response to the need for oversight, accountability and transparency in death investigations and is faithful to the tremendous contribution of Justice Goudge in showing us the way. RNAO recommends that the bill be amended to strengthen political accountability by maintaining the minister's power to order an inquest; requiring annual reports of the death investigation oversight council to be tabled in the Legislature and made public; and ensuring that reports of the complaints committee to the oversight council be tabled in the Legislature and made public.

I thank you, on behalf of our organization, for the opportunity to be with you today, and I will answer questions if there are any and if time allows.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have about three minutes per party. We'll begin with the NDP and Mr. Prue.

Mr. Michael Prue: There were several deputations before you today—I know you weren't here—that made very strong recommendations that northern communities, particularly First Nations communities, not be treated differently than those in the south. The overwhelming majority of coroners in southern Ontario are doctors, and they felt—I think, justifiably so—that they ought to be treated exactly the same.

You are recommending that nurse practitioners and others be allowed to do pathology or coroner's work. Do you see any difference between what would be accomplished in southern Ontario and in northern or isolated communities? I want to make sure everybody is treated the same. I don't want to say that nurses or nurse practitioners are going to do this kind of work in northern Ontario but not in the south. If everybody is going to get it, I can live with that; I think it's a good idea. But if it's going to be a lessened service for northern communities, I do have some difficulty. So I need to know where you're coming from with this.

Ms. Wendy Fucile: Let me say that I share your concern for the north, because although I now live in Mr. Leal's riding, I grew up in the north.

The request to appropriately delegate responsibility is a model that exists now in the Regulated Health Professions Act. It is a model that has served us well, in that there are situations in which the person most typically doing that work isn't there or, in situations as happen with nurse practitioners, where the scope of practice of another group has grown to encompass work that had previously been held in another profession.

The piece that's critical here, unless things have changed a lot in the north, is that there are communities up there where there isn't a coroner; there isn't a physician, much less a coroner.

I would argue that not using people with an appropriate skill and knowledge base, and giving them the appropriate training that supports all legal delegation, actually disadvantages them more. I don't think the focus should be on who is doing it, but more on ensuring there is somebody who is appropriately trained and qualified to do it.

Mr. Michael Prue: I want to make sure that that person who is qualified can also work in southern Ontario, because I want to make sure there isn't one level of service for northern, especially First Nations, communities, and a different level of service—I don't care whether it's exactly the same. We used to call that apartheid. I don't want to do this. I want to make sure it's exactly the same for everyone. That's what I want you—

Ms. Wendy Fucile: I will go there. We would not see delegation being limited geographically in any way.

Mr. Michael Prue: Okay. Thank you.

The Chair (Mr. Lorenzo Berardinetti): We'll go to the Liberal Party and Mr. Levac.

Mr. Dave Levac: Thank you very much for your presentation and the work you do in our province.

Ms. Wendy Fucile: You're more than welcome.

Mr. Dave Levac: We're deeply appreciative of all of the work you do, sometimes holding our feet to the fire when necessary. Part of this is what you're doing today.

I don't subscribe to the definition that was used by my colleague across the way—and we get along quite well. In terms of up north, there is still an attached coroner to the investigations. This system that's being asked to move even further is to accommodate that and ensure that we have the highest level of accountability we can get when there isn't any at all. That's the intention of the bill, and I wanted to characterize it that way.

I'm hoping you are aware that all the legislative components that Judge Goudge recommended are being included in the bill. There are other additions beyond what the judge said that we haven't done yet, but our commitment is to continue to study those that are not legislated, to continue to grow it. We've also added beyond what the judge has talked about, in terms of the Smith case, and offered other components of improvement.

I can tell you clearly that your recommendations are well spoken to. We've heard them loud and clear. Staff is already working on them. I understand that some of the other deputations have kind of prodded the staff to move

forward. So any other ideas that are coming forward regarding transparency, reporting to the Legislature—all the types of things we've heard from deputations, from the beginning to now—are starting to be addressed.

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My final comment to you, and then a quick question: The Minister of Aboriginal Affairs' parliamentary assistant is sitting right beside me. He has already made a commitment to the chief, when he made his presentation, that there will be some dialogue between aboriginal issues and the minister's office—that's where I'm parliamentary assistant—to ensure that those First Nations issues that were brought to our attention, before and now, are going to be addressed.

Hopefully, when we put all these pieces together, we will end up with a much superior act that allows us to get better answers, more quality and accountability, and I appreciate the fact that you've said that.

I'll leave it at that; we don't need to get into the question. I wanted to make sure there was clarity behind it, because sometimes we get stuck with this—I want it to be on record—rightfully so, when opposition comes in and says, "Here is what's wrong," but they forget to tell you there are other pieces that help that wrong piece, that might not appear good, but it is actually going to be collective, as a whole unit.

Ms. Wendy Fucile: On RNAO's behalf, we look forward to seeing the changes you reference, which have come forward from our recommendations and others, coming into being.

Mr. Dave Levac: Absolutely, and they can come from the opposition or us.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation. Those are all the questions.

JULIAN FALCONER

The Chair (Mr. Lorenzo Berardinetti): We will move on to our next presentation, Julian Falconer.

Good afternoon, and welcome to the committee. As I said to previous deputations, you have 20 minutes to make your presentation. If you finish early, the committee may ask you some questions from the three different parties present.

Mr. Julian Falconer: Mr. Chair and members of the committee, my name is Julian Falconer. I am counsel in the province of Ontario. My colleague with me here today, Ms. Jackie Esmonde, is an associate lawyer with our firm, Falconer Charney.

We appear before you, not usually, with a number of hats on, if I may. Firstly, we were counsel to a party before the Goudge commission. At the inquiry, we represented the coalition of Nishnawbe Aski Nation/Aboriginal Legal Services of Toronto. I know you've heard from Deputy Grand Chief Fiddler and Ms. Murray, the executive director—I won't plough over already-tilled ground, if you will. The coalition of their organizations was our client at the inquiry.

I say "numerous hats" because I have had the honour of acting—I'm getting embarrassed to say, in terms of

the number of years—for quite a number of families at inquests into the deaths of loved ones. Often, these inquests have been the result of deaths in custody, be they circumstances where they're in the detention of police officers or as a result of deaths in institutions: provincial youth detention centres, provincial reformatories, adult lockups and, finally, federal penitentiaries.

The inquest process is a key feature of the Coroners Act, and when I make the comments I make today, it's with a view to making the point to you that while I see major change—important, progressive change—in aspects of coroners' powers outside of the conduct of inquests, I worry that a major opportunity has been lost to create important change in the area of the conduct of inquests.

When I say “important opportunity,” it's important to realize that the Coroners Act legislation, as you no doubt are aware as a committee, has not undergone legislative change for decades. What that means to all of us is, when the decision does finally come to make change, if there are changes that have not been done that should be done, I say it deserves another look.

I'll start with addressing what were key findings from the NAN-ALST coalition's point of view in respect of the inquiry into pediatric forensic pathology—the Goudge commission. Key findings by the Goudge commission amounted to this: that the province of Ontario and the Office of the Chief Coroner of Ontario have failed to provide adequate resources to ensure that coronial and forensic pathology services in First Nations communities and remote communities are reasonably equivalent to those elsewhere; that historically and thus far—and I say this inferentially from the report—the challenges in delivering services to remote First Nations communities have basically been taken as a licence for acceptance of the status quo, and the status quo to date has been that death scenes, according to Justice Goudge, are seldom attended by coroners for First Nations communities, let alone pathologists, and many families who suffer the death of a child are left too much in the dark about autopsy procedures and even why their child died.

I add to this a component that doesn't spring from the Goudge report. It has sprung, though, from a number of different proceedings, including questioning I did of witnesses at the Goudge proceedings. That is that in addition to the absence of coroners in the local communities—the absence of coroners attending on deaths—there is an utter dearth of inquests, period, as they apply to losses in remote communities. Probably the best way I can describe how serious the situation has become—not had become; the Goudge inquiry only concluded a number of months ago. It is important that Bill 115 sits before you so quickly, and the government should be given credit for moving quickly; I think that's important. But the evidence a number of months ago before the Goudge commission was that you had communities such as Mishkeegogamang that suffer extraordinary health problems within their communities, whose death rate, for

example—death by accident—is recorded in federal reports as 52%. That is, 52% of the deaths in Mishkeegogamang are attributable to accident, including finding a person drowned, finding a person dying from exposure, substance abuse etc. That 52% is to be contrasted with 8% as the Canadian average; that is, deaths due to accidents are 8% everywhere else.

What does that tell us? That tells us that conditions are deplorable and there are very serious public safety issues. These communities that have the most serious public safety issues don't attract the attention of coroners. We don't want to be artificial about this or try to fix black hats where they don't belong. This isn't about coroners deliberately disregarding their duties or failing to discharge their obligations; it's about a lack of resources and it's also about a failure of the system to admit and acknowledge the problem.

Speaking for myself at the Goudge inquiry, my questioning of the upper brass of the coroner's system started with asking about the attendance of coroners in remote communities, and the answers were non-committal, from, “Coroners get out there sometimes,” “Coroners are out there,” “Coroners aren't out there as much as they should be” and ended up at, “Coroners are rarely out there,” and finally the finding by Mr. Justice Goudge, that death scenes are seldom attended. In other words, there is a real difficulty in the system to admit the lack of delivery of services.

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Why do I raise this? If you have wholesale deaths in a community but you don't have the mechanisms for monitoring those deaths, such as coroners' investigations and the calling of inquests, then those deaths are destined to repeat themselves. So there is a large public safety issue that surrounds the fact that the coroners' services and the attendance of coroners in the absence of coroners' investigations occur, and—I want to keep repeating this—the result is the reality that there are very few inquests.

Currently, two inquests have been ordered: That is, in my view, the Goudge inquiry has resulted in somewhat of a wakeup call. Right now, in Toronto, there's a coroner's inquest into the death of two young First Nations individuals, Ricardo Wesley and Jamie Goodwin, from the Kashechewan community, arising from the jailhouse fire. Secondly, there is a coroner's inquest that's been convened into the Bushie inquest, the death of a First Nations youth at a school in Thunder Bay.

Things are changing, but changing very slowly. They need legislative help, and that's not in this legislation; it's not there. Obviously, Bill 115's primary focus is the issue of the delivery of pediatric forensic pathology services. There's no question. That First Nations got representation at the inquiry and Justice Goudge devoted a chapter of his report to these issues is very fortunate for First Nations and was not an easy fit to begin with. I would admit that. It's easy to let this issue fall off the table, but this is an opportunity for change in an area, I repeat, that has not been changed for decades.

How would that change happen? I'm not going to speak to the obvious stuff that you've already got in front of you in my submission. You will hear a great deal about that from people, in many cases, who know more than I. But there are certain aspects that I warn you about now that this legislation could either stymie, change or simply not change at all.

First of all, there is the suggestion of the creation of oversight in Bill 115. You all know about it. You will have already heard about it. What is interesting is that under the complaints committee process, under section 8.4, "Matters that may not be the subject of a complaint" include:

"1. A coroner's decision to hold an inquest or to not hold an inquest.

"2. A coroner's decision respecting the scheduling of an inquest."

I'm going to stop at those two. Decisions to not convene inquests can be localized, narrow, case-by-case matters, or they can reflect systemic problems, a failure to attend to or give attention to issues.

There is almost no justification, in my mind—as, to be honest, a person who has published a book in the area of the Coroners Act, an annotated Coroners Act—for why the question of the convening of inquests should be beyond the scope of proper oversight and complaints. In fact, from a First Nations perspective, if we're dealing with First Nations for a moment, this should have been the subject of complaint, and in the 1960s and 1970s it was, but nothing was done about it. There is no reason, from an intellectually principled point of view, that the chief coroner or coroners should be beyond accountability on the questions of the convening of inquests.

I would ask you to also consider this: When you look at the notion that the complaints process should not apply to a coroner's decision relating to the conduct of an inquest, which you see under 8.4, I can understand that you would not want complaints attaching to the conduct of proceedings; that is, you don't want an armchair quarterback, a coroner making judicial-style decisions in the running of a hearing. But I ask you this—and just reflect for a moment. Our current judicial council system for judges provides that complaints can be made about judges and how they judge and how they make determinations in the conduct of a court proceeding. That's how the system runs. I don't understand why we would immunize coroners from the same level of scrutiny we use for judges. I don't understand it, and what concerns me is that it sends the wrong message. It isn't about there being an alternative form of oversight in this. Just so you know, I can't find how that oversight is to happen.

Now, some will say that the oversight is to happen by way of judicial review. If you have a problem with a decision by a coroner, you launch a judicial review. But in fact, that's no different than for a judge. If a party has a problem with a judge's decision, they appeal. That's for the stuff within the law, within the confines of how they exercise their jurisdiction. But there will be unfortunate, regrettable and hopefully exceptional circumstances

where somebody has gone way over the line and it's a matter of discipline, not a matter of errors of law. We have processes with police officers and processes with judges. I simply don't understand why, in the case of an adjudicator running an inquest, we wouldn't have a similar process.

I want to deal with the regulation-making power in this act. As a lawyer, I'm more than familiar with the important role the regulatory framework plays in supporting legislation, and that the fine points—the dotting of the i's and the crossing of the t's—is often left to the regulatory process. But I would urge you to consider that there are certain matters in Bill 115 that have been left for regulation that you may well want to revisit and ask yourselves if they should not be statutorily enshrined at a higher level in the law and not left for regulation, which has much less scrutiny in terms of passage and in terms of input.

Let me give you an example of what I'm referring to: the makeup of the oversight council. In my opinion, there is nothing that would preclude the makeup of the oversight council being included in the act itself. I do not understand why this is being left somewhere a lot darker than this room. We don't do the same thing with regulations that we do with legislation; we know that. This isn't dotting the i's or crossing the t's. Any read of the Goudge report tells you that First Nations have been horribly excluded from the system. There would be nothing wrong with attempting to partially redress that wrong by ensuring First Nations representation on an oversight council. Now, that's something that I know has been ploughed before you already by previous speakers, but I want to simply say this: If you think there's merit to that, make it part of the legislation rather than leaving it to regulation.

One of the things that, in my view, should be included in Bill 115 but is missing is the cultural sensitivity that should be taken into account as a factor in the conduct of post mortems, particularly as it affects First Nations clients, but my view is that it's not just First Nations. Particularly as it affects First Nations clients, this is a serious, major issue. There should be a legislative direction that cultural sensitivities should be one of the factors addressed in determinations on if and in what circumstances a post mortem ought to be done. It shouldn't be determinative, but it should be a factor.

In my submission, an issue that is lacking in Bill 115—this is the final area I'm going to deal with; I'm getting close to the end of my 20 minutes—is the question of how far communication should go with families when an inquest is ordered. There is a fairly detailed set of obligations that arise when an inquest is not ordered; that is, when a chief coroner or a coroner decides an inquest is not to be ordered, there is a report that has to be created and there's access to that report through family members and their representatives. I act for numerous families that have had to wait three or four years before they heard anything because the order of an inquest has stopped all information flow. In my view,

many of the reports that are prepared in the conduct of the investigation could easily be furnished to the family so they had some information in advance of the inquest, which may be years down the road. In my view, there is simply no intellectual principle for not giving them information.

I said that was my last area; I'm going to rely on the "I'm a lawyer" defence to have one more area I want to speak to. There are currently two cases before the divisional court, one called Bushie and the other called St. Pierre, two cases currently being litigated that relate to the question of how juries should be picked in coroners' inquests. I'm counsel on one of them.

In September 2008, at the start of the Kashechewan proceedings, an affidavit was filed that resulted in the revelation that the jury was being picked in breach of the Juries Act, because there was virtually no First Nations representation on the jury panels in the Kenora district—44 out of 1,200 people, I think, even though the First Nations population is actually almost half; 44 of a 1,200-person pool, even though almost half the population is First Nations. Lawyers from the north routinely look at me, when I speak to them about this issue, and say, "You know, I do a First Nations trial, and I see First Nations skin on the accused. I look in the gallery, and some of the family may be there. But I look at the jury—never." This isn't a fluke. What we realized and determined and uncovered in the months that followed September 2008 was that there has been a wholesale failure to work with current data in creating jury rolls. The result has been a breakdown in First Nations representation on juries.

Why does that concern you, and how does it relate to Bill 115? Let me explain. When that issue was raised in the inquest—

The Chair (Mr. Lorenzo Berardinetti): We've reached the 20-minute mark, so if you can wind up—

Mr. Julian Falconer: Sure.

The Chair (Mr. Lorenzo Berardinetti): —to respect all the other deputations that have come and held to their time limits, and also the members who are here.

Mr. Julian Falconer: Fair enough. I'll do that.

The way it affects this legislation is that the Coroners Act historically has never had express rules for picking juries. If you do a criminal trial or a civil trial, there are express rules for how juries are picked. There is no express delineation, other than some bare-bones rules on picking juries. In fact, the Bushie case is before the courts because the coroner has declined—since I'm on the case, I can say this authoritatively—to let the parties know how they picked the jury, because the coroner has held that there's nothing in the act that says he even has to say how the jury was picked. There are no delineated, clear rules on the picking of juries.

You're doing a wholesale change to an act. There is a current social problem that is making its way through the courts. It would be a good idea, in my respectful submission, to get a proper briefing on how this might be addressed in this new legislation. Let's not let this opportunity go by. I have done enough work with the Coroners Act in the last 20 years to know that the notion of change is a very brand new and fleeting idea. Let's not lose or miss this important opportunity.

I thank you for your patience.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Falconer. That consumes the 20 minutes.

We are adjourned until our next meeting, which is on April 9.

Mr. Dave Levac: Clause-by-clause?

The Chair (Mr. Lorenzo Berardinetti): We'll go through the legislation clause by clause on Thursday, April 9.

The committee adjourned at 1701.

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Standing Committee on Justice Policy

Coroners Amendment Act, 2009

Comité permanent de la justice

Loi de 2009 modifiant
la Loi sur les coroners



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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 9 April 2009

Jeudi 9 avril 2009

The committee met at 1403 in committee room 1.

CORONERS AMENDMENT ACT, 2009

LOI DE 2009 MODIFIANT
LA LOI SUR LES CORONERS

Consideration of Bill 115, An Act to amend the Coroners Act / Projet de loi 115, Loi modifiant la Loi sur les coroners.

The Chair (Mr. Lorenzo Berardinetti): Good afternoon and welcome to the justice policy committee. We will be amending the Coroners Act. Are there any comments, questions or amendments to any section of the bill, and if so, to which section?

Mr. Garfield Dunlop: I've got a number of amendments here.

The Chair (Mr. Lorenzo Berardinetti): Yes. You can start with your first one.

Mr. Garfield Dunlop: This is one that—we listened to Terence Young and his group.

I move that section 1 of the bill be amended by adding the following subsection to section 1 of the Coroners Act:

"Interpretation of means of death

"(3) A reference in this act to the means by which a deceased came to his or her death refers to one of the following causes of death:

- "1. Natural causes.
- "2. Accident, which includes iatrogenic death.
- "3. Suicide.
- "4. Homicide.
- "5. Undetermined."

Our comment on this is, the motion legislates the means of death and amends existing policy so that iatrogenic death—it's defined in a memo to committee as "An unintended injury or harm to patient resulting from health care management rather than a disease process"—is classified as accidental as opposed to a natural means of death.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Are there any comments?

Mr. Peter Kormos: New Democrats support this because it imports the inclusion of iatrogenic death, which of course was the subject matter of a number of very competent submissions.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any other comments?

Mr. Dave Levac: For information purposes, the government will not be supporting this because the means of death that is being proposed is currently captured under either the natural death or accidental death categories. These definitions are already captured through the "by what means" category. Therefore, we believe it's already covered off in the act.

The Chair (Mr. Lorenzo Berardinetti): All right. Then we'll take a vote. Any further debate? All those in favour? Opposed? That amendment does not carry.

We'll go to the next amendment—

Interjection.

The Chair (Mr. Lorenzo Berardinetti): I'm sorry. Shall section 1 of the bill carry? Those opposed? Carried.

Section 2? Carried.

Section 3? Mr. Levac?

Mr. Dave Levac: I move that subsection 7.1(1) of the Coroners Act, as set out in section 3 of the bill, be struck out and the following substituted:

"Pathologists register

"(1) The chief forensic pathologist shall maintain a register of pathologists who are authorized by the chief forensic pathologist to provide services under this act."

The provision will ensure that the pathologists on the register of pathologists are those who are authorized by the chief forensic pathologist. Currently, subsection 7.1(1) authorizes the chief forensic pathologist to maintain a register of pathologists who are available to provide services under the Coroners Act. With the existing wording, a pathologist may argue that he or she is available, even if the chief forensic pathologist has concerns about his or her qualifications.

The chief forensic pathologist must be authorized to determine whether a pathologist is qualified to provide these services. Other pathologists authorized by the chief forensic pathologist should be on the register.

This cleans up a piece of the act for which we need to change the wording.

The Chair (Mr. Lorenzo Berardinetti): Any further debate? None? We'll put it to a vote. All those in favour? Opposed? Carried.

Shall section 2, as amended, carry?

Interjection.

The Chair (Mr. Lorenzo Berardinetti): I'm sorry. Section 3, as amended: All those in favour? Opposed? Carried.

We'll move on to section 4.

Mr. Dave Levac: I move that subsection 8(7) of the Coroners Act, as set out in section 4 of the bill, be struck out and the following substituted:

“Annual report

“(7) At the end of each calendar year, the oversight council shall submit an annual report on its activities, including its activities under subsection 8.1(1), to the minister, who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the assembly.”

The provision requires the minister to provide an annual report of the death investigation oversight council to the Lieutenant Governor in Council and then table it to the Legislative Assembly. This will ensure greater transparency and public accountability—we listened to what was asked of us—which would simultaneously foster improved public confidence in the death investigation system. Respondents through the Registered Nurses’ Association of Ontario recommended that Bill 115 be amended to require annual reports of the death investigation oversight council and others to be tabled to the Legislature and made public, and ensure reports to the complaints committee and the oversight council be tabled in the Legislature and made public. We believe that’s the right thing to do.

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The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further debate?

Mr. Peter Kormos: I’ll tell you what, Chair. Many of these amendments are just obvious in terms of what they’re responding to. If Mr. Levac wants, I propose that we move the government amendments. If there’s something curious about it—

Mr. Dave Levac: Done.

Mr. Peter Kormos: —one of us will ask. If he feels compelled to read the script, I’m not going to interfere with his compulsive behaviour. He’s a fair-minded person.

Mr. Dave Levac: In response, I’ll agree.

The Chair (Mr. Lorenzo Berardinetti): Okay.

Mr. Shafiq Qaadri: We still have to read it into the record.

Mr. Dave Levac: The amendments, yes, but he’s talking about the rationale.

Mr. Shafiq Qaadri: Oh, the rationale.

Mr. Peter Kormos: I’m talking about the script from the ministry.

Mr. Dave Levac: I did ad lib, Peter. Come on.

Mr. Peter Kormos: Don’t admit to that.

Mr. Dave Levac: I did. They’ll tell you.

Mr. Peter Kormos: You’ll scare the hell out of the ministry staff.

Mr. Dave Levac: No, no; they’re smiling.

Mr. Peter Kormos: Yes. They have tenure. They’re not going anywhere.

Mr. Dave Levac: They trust me. Go ahead, Chair.

Mr. Peter Kormos: Don’t forget, the deputy minister reports to the Premier, not to the minister.

The Chair (Mr. Lorenzo Berardinetti): Shall subsection 8(7) of the Coroners Act—this is the amendment on page 3—carry? All those in favour? Opposed? Carried.

We’ll move on, then, to the next proposed amendment, which is Mr. Dunlop’s, page 5.

Mr. Garfield Dunlop: We were going a little bit further on this.

I move that section 8 of the Coroners Act, as set out in section 4 of the bill, be amended by adding the following subsection:

“Availability to public

“(8.1) The oversight council shall make reports that are submitted under subsection (7) and (8) available to the public in both printed and electronic formats.”

The motion advances the main conclusion of the Goudge inquiry: the need to increase transparency and accountability. In the current technological age, information should be available to the public in both print and electronic formats, including on an organization’s website. Enhancing information available to the people increases their opportunities for active citizenship.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further debate?

Mr. Dave Levac: The government will not be supporting the amendment. It’s not done anywhere else, and it may be going through personal and confidential information that may be subject to some very difficult situations.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further debate? None? We’ll vote on the motion. All those in favour? Opposed? It does not carry.

Mr. Dave Levac: Keep it moving, Garfield.

Mr. Garfield Dunlop: I move that subsection 8.1(1) of the Coroners Act, as set out in section 4 of the bill, be amended by adding the following paragraph:

“5.1 The exercise of the power to refuse to review complaints under subsection 8.4(9).”

This motion will enhance accountability of the chief coroner and the chief forensic pathologist under subsection 8.4(9) and also increase the public’s faith in the system as a whole. We took this from Mr. Farlow’s presentation and the Psychiatric Patient Advocate Office of Ontario.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further debate?

Mr. Dave Levac: Yes. We will support this with an understanding that with a friendly amendment of changing 5.1 to 4.1—the staff believe that this captures an even larger sense of the intent of the motion. So if we change 5.1 to 4.1, the government will accept. A friendly amendment.

Mr. Garfield Dunlop: Yes. I agree with that.

Mr. Dave Levac: You have to read it.

The Chair (Mr. Lorenzo Berardinetti): All those in favour of the friendly amendment? Opposed? Carried.

All those in favour of the motion, as amended? Carried.

We’ll move on to the next motion.

Mr. Dave Levac: I move that the motion relating to subsection 8.1(1) of the Coroners Act be amended—

The Chair (Mr. Lorenzo Berardinetti): One moment, Mr. Levac. I think the next one is on page 7 here.

Mr. Garfield Dunlop: I think it's mine.

The Chair (Mr. Lorenzo Berardinetti): We're on page 7. So this is Mr. Dunlop's motion.

Mr. Garfield Dunlop: I move that subsection 8.2(1) of the Coroners Act, as set out in section 4 of the bill, be struck out and the following substituted:

"Complaints committee

"8.2(1) There shall be a complaints committee of the oversight council composed, in accordance with the regulations, of,

"(a) members of the oversight council, appointed by the chair of the oversight council; and

"(b) at least two members of the public who are not members of the oversight council, appointed by the chair of the oversight council."

This is a motion recommended in Mr. Farlow's presentation. The motion amends the bill to ensure that members of the public are included in the oversight council. My previous PC motion to this amendment works with the main premise of the Goudge recommendations to increase the public's faith in the system. In this case, it will do so by including non-members of the oversight council, thereby decreasing the likelihood that complaints will be made of internal cover-ups.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Levac.

Mr. Dave Levac: While we accept the intent of the interpretation of the Goudge report, he didn't quite say that it needed to be in the legislation. As a matter of fact, I quote: "The membership of the governing council should be set by regulation." That's on page 337 of his report. We intend to do so in regulation, and we feel that when the draft of the regulation is done, we will be dealing with this issue as a regulatory stream instead of a legislative one. So we won't be supporting this because we don't know as of yet the assignment of two members versus what we come out with with the regulatory stream.

The Chair (Mr. Lorenzo Berardinetti): Any further debate? None? All those in favour of the motion? Opposed? That does not carry.

We'll go on.

Mr. Garfield Dunlop: I move—

The Chair (Mr. Lorenzo Berardinetti): Apparently this one now becomes invalid because it's redundant.

Interjection.

The Chair (Mr. Lorenzo Berardinetti): It's just invalid.

Mr. Garfield Dunlop: Page 8 withdrawn.

The Chair (Mr. Lorenzo Berardinetti): Thank you. I don't need a motion for that, do I? No? Okay, so we'll go on to page 9, then. Mr. Levac.

Mr. Dave Levac: I move that subsection 8.3(2) of the Coroners Act, as set out in section 4 of the bill, be amended by striking out "for the purposes of the admin-

istration of this act" at the end and substituting "for the purposes of the administration of this act or the Regulated Health Professions Act, 1991 or as otherwise required by law."

This amendment—I'll wait for comment.

Mr. Peter Kormos: I think it's a reasonable amendment. I intend to support it.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any other debate? None? All those in favour, then? Opposed? That carries.

The next one is on page 10. Mr. Dunlop.

Mr. Garfield Dunlop: I move that paragraph 1 of subsection 8.4(3) of the Coroners Act, as set out in section 4 of the bill, be amended by striking out "or not to hold an inquest" at the end.

This motion will amend the bill by providing a point of appeal for individuals. There is no similar provision in the act.

The Chair (Mr. Lorenzo Berardinetti): Any debate? Mr. Levac.

Mr. Dave Levac: Yes, we won't be supporting it because there's already a process in place whereby complaints of those appealing the coroner's decision not to hold an inquest can appeal via the judicial review.

The Chair (Mr. Lorenzo Berardinetti): Mr. Kormos.

Mr. Peter Kormos: That's one of the problems with the whole approach that's been taken in support—for instance, the repeal of section 22—and it's the undercurrent in the government's rationale for not supporting this. The reality is that most decisions around inquests are not medical decisions; they're justice decisions. The minister, for instance, stands up and says, "I'm not a doctor. Who am I to overrule the coroner?" Well, the fact is that the coroner's office is a highly politicized body. When we heard people make comments about their experience with various coroners and the chief coroner, we heard some of the incredibly tragic stories of people who were looking for justice. See, they knew their daughter had died. That's the reality; it's a fact of life. It isn't about knowing whether or not she's dead; of course she's dead. So it's very peculiar, because the government's rejection of this amendment is consistent with their efforts—I assume they'll be successful—to repeal section 22. The Coroners Act is as much, if not more, about justice than it is about health and health care, and I find it regrettable that that isn't perceived. At least, it isn't articulated by government members, least of all the minister.

1420

The Chair (Mr. Lorenzo Berardinetti): Further debate? Mr. Levac.

Mr. Dave Levac: Not to belabour the point, but as a reminder, I don't necessarily agree with the characterization that it's in that vein that we are against any kind of amendment. I would also remind Mr. Kormos—who doesn't need the reminder; I just want to be on record as saying that inquests are not performed to find guilt. Inquests are done to find ways in which to improve, change, modify and prevent. So I think it's a little bit of a different step or a different logic when we present our-

selves in an inquest. I don't agree with the characterization, but I understand the point he is making because of the very deputations we've heard. I'm respectful of those.

The Chair (Mr. Lorenzo Berardinetti): Mr. Kormos.

Mr. Peter Kormos: Mr. Levac has engaged; let me expand. Take a look at the existing section 25 of the Coroners Act. That's the section that the coroner down in Hamilton is relying upon to hold the joint inquests around Jared: an inquest into the death of the boy and an inquest into the death of the father. Once again, we know how the boy died and we know how the father died. There's no secret about that; it was notorious. Everybody knows.

But the interesting thing is, you see here—and this is the problem with eliminating or rejecting the appeal process that Mr. Dunlop is proposing in his amendment and with the repeal of section 22. Take a look at 25(2): "Where two or more deaths appear to have occurred in the same event or from a common cause"—same event—"the chief coroner may direct that one inquest be held into all of the deaths."

You see, one of the arguments for the repeal of section 22 is, "Oh, you can go to Divisional Court," right? But in Divisional Court, the court's only allowed to determine whether or not the coroner's acting within the scope of the law. I've acknowledged in the Legislature—so has Ms. Horwath—that the coroner's decision to hold a joint inquest is legal. It's not illegal. The coroner has that discretion to do it. He "may." It's a discretion, and no Divisional Court is going to overrule that. You can't tell Jared's mom or his grandmother to go to Divisional Court, because the court's going to have to find that, no, what the coroner's doing is within the scope of the law.

But again, is justice being served? I'm not talking about guilt or not guilt, I'm talking about justice—justice for the memory of Jared, justice for other kids who are caught in the same, dare I say it, crossfire in divorce and matrimonial situations. That's, once again, regrettable. When I say justice, I'm not talking about findings of guilt. I'm well aware of the law in that regard. I'm talking about what's just and fair. I would argue that what's happening in Hamilton with Jared is neither just nor fair, but it's perfectly legal, and that's why we need the appeals stage that Mr. Dunlop's moving and it's why we need to retain section 22. So let's move on.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much. We have a PC motion that Mr. Dunlop has moved on page 10. So let's vote—

Mr. Garfield Dunlop: We're voting on page 10?

The Chair (Mr. Lorenzo Berardinetti): Yes.

Mr. Peter Kormos: Recorded vote.

Ayes

Dunlop, Kormos.

Nays

Levac, Moridi, Qaadri, Rinaldi.

The Chair (Mr. Lorenzo Berardinetti): So that does not carry.

We'll move on to the next.

Mr. Garfield Dunlop: I move that section 8.4 of the Coroners Act, as set out in section 4 of the bill, be amended by adding the following subsection:

"Notice of referral

"(8.1) If the complaints committee refers a complaint to the College of Physicians and Surgeons of Ontario or any other person or organization under subsection (8), the committee shall promptly give notice in writing to the complainant, the coroner or pathologist who is the subject of the complaint, and the oversight council."

This motion will increase accountability and transparency, consistent with the Goudge recommendations, by ensuring that all relevant parties—the complainant, the coroner and the pathologist who is the subject of the complaint and the oversight council—are formally advised in writing that a complaint will be reviewed by another body.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further debate on this? Mr. Levac.

Mr. Dave Levac: The government agrees with the logic, understands the motion and will support it.

The Chair (Mr. Lorenzo Berardinetti): The one point I wanted to make, if I may interject here, is that we have 8.1—"If the complaints committee refers a complaint to the College of Physicians and Surgeons of Ontario or another person"—and it should be "any other person," I think.

When you spoke, you said, "any other," just for the record. You meant to say "another," right?

Mr. Garfield Dunlop: "Another": Did I say that?

The Chair (Mr. Lorenzo Berardinetti): You said "any other."

Mr. Garfield Dunlop: Okay, "another"; I'm sorry.

Mr. Dave Levac: Record corrected.

Mr. Shafiq Qaadri: Hansard takes care of those things.

The Chair (Mr. Lorenzo Berardinetti): Sometimes. Okay. So we're clear on that. We'll vote on this.

Is there any other debate or discussion? None? All those in favour? All those opposed? The motion carries.

We'll move on to page 12.

Mr. Garfield Dunlop: I move that section 8.4 of the Coroners Act, as set out in section 4 of the bill, be amended by adding the following subsection:

"Availability to public

"(15.1) The oversight council shall make reports that are submitted under subsection (15) available to the public in both printed and electronic formats."

This motion advances the main conclusion of the Goudge inquiry: the need to increase transparency and accountability. In the current technological age, information should be available to the public in both print and electronic formats. Enhancing information available to the people increases their opportunities for active citizenship.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any comments or debate? Mr. Levac.

Mr. Dave Levac: The government won't be supporting the amendment. It's not in keeping with the practice of the College of Physicians and Surgeons of Ontario. The only other concern is that the reports could start to come in as vexatious, frivolous, unfounded complaints all get reported. I think it's not helpful, so we won't be supporting it.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Kormos?

Mr. Peter Kormos: That's interesting. The annual report of the review of complaints against judges contains all sorts of frivolous and vexatious complaints and identifies them as such.

The Chair (Mr. Lorenzo Berardinetti): And lawyers too, I think.

Mr. Peter Kormos: There are no frivolous or vexatious complaints about lawyers.

The Chair (Mr. Lorenzo Berardinetti): Not me.

Interjection.

Mr. Dave Levac: We're not in favour.

The Chair (Mr. Lorenzo Berardinetti): Any other debate? None? All those in favour of the motion? All those opposed? The motion does not carry.

We'll now move to page 13. Mr. Kormos.

Mr. Peter Kormos: I move that section 8.4 of the Coroners Act, as set out in section 4 of the bill, be amended by adding the following subsection:

"Tabling

"(15.1) The oversight council shall submit the annual report to the minister and the minister shall table the annual report in the Legislative Assembly."

I like reports that are tabled in the Legislative Assembly. It provides a transparency and an accessibility that wouldn't exist otherwise.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Levac?

Mr. Dave Levac: While I understand what Peter is talking about and the circumstances under which this particular amendment finds itself in the same vein as the previous one, we won't be supporting it, although I do want to remind those people who are listening that the oversight council was amended by the government—and it was accepted by the other people—that we will be submitting the annual report to the Legislature. So we're not removing ourselves from transparency. We're adding to it by the original amendment, so this one won't be supported.

The Chair (Mr. Lorenzo Berardinetti): Any other debate? None? All those in favour of the motion? All those opposed? That does not carry.

That ends section 4, then. So I'll ask the question—

Mr. Peter Kormos: Chair, I'm quite prepared to deal with sections 4 and 5 together.

The Chair (Mr. Lorenzo Berardinetti): I'm required to read both of them separately.

Shall section 4, as amended, carry? All those in favour? All those opposed? Carried.

Shall section 5 carry? All those in favour? All those opposed? Carried.

We'll move on then to section 6, page 14. Mr. Dunlop. 1430

Mr. Garfield Dunlop: I move that subsection 6(1) of the bill be struck out.

This motion will continue to make it an individual's duty to report a death when it has occurred by unfair means. We agree with the Ontario Bar Association, who recognized in their submission that a death in such circumstances may be captured by the broad clauses such as 10(1)(d), (f) or (g). However, it is also possible that it may not. If the purpose behind a coroner's investigation is to investigate suspicious circumstances, "unfair means" seems to speak directly to that purpose. A description of circumstances as unfair may be more appropriate in some situations.

The Chair (Mr. Lorenzo Berardinetti): Any discussion or debate? Mr. Levac.

Mr. Dave Levac: The government is of the mind here that it can or can't. The one point I would like to make is that this is an extremely—I defer to the lawyers in the room who have knowledge of "unfair means." My understanding is that it's relatively obsolete and very rarely, if ever, used and that this is the only type of death being repealed. So the duty to report still remains on all of the other types of deaths, including results of violence, misadventure, negligence, misconduct, malpractice, during pregnancy, following pregnancy; all of those are still reportable. "Unfair means" are captured by deaths that fall under the same categories such as negligence, misconduct and malpractice. Why we wanted to do this: It was almost like a cleaning-up situation with something that's obsolete and hardly understood when we say "unfair means."

Mr. Peter Kormos: Chair, perhaps we could—

The Chair (Mr. Lorenzo Berardinetti): Mr. Kormos.

Mr. Peter Kormos: My sense of "unfair means" is far more exotic—

Mr. Dave Levac: Okay, I'm open to that.

Mr. Peter Kormos: Perhaps a duel where the guy turned around before they'd walked the 10 steps. I'm dead serious. Think about it: unfair means, right? I just said it was more exotic and far more interesting and exciting. Can we get somebody to come here and tell us—because it is an interesting phrase—what it means or has meant?

Mr. Dave Levac: Can you please just come in and identify yourself and then just explain? That's fine.

The Chair (Mr. Lorenzo Berardinetti): I've become a ventriloquist. I can do it without moving my lips. Go ahead.

Mr. Jay Lipman: Jay Lipman, counsel of the Ministry of Community Safety.

We did look at "unfair means," and it's never been judicially considered in reforms to the Coroners Act. It seems to have been used, rarely, in the context of fraud. So with insurance fraud, they'll use the term "unfair means" in that particular legal context.

Mr. Peter Kormos: What would an example be, though?

Mr. Jay Lipman: I don't think we have one.

Mr. Peter Kormos: So the duel is a pretty good one.

Mr. Dave Levac: It's pretty exotic.

Mr. Jay Lipman: We do know that it's been in the act for a long time. I don't remember the date exactly, but we did look at it and it's been in there since early days. So a duel? Possibly.

Mr. Peter Kormos: I'm inclined to want to keep it just for its trivia value. It doesn't hurt.

Mr. Dave Levac: I'm okay.

Mr. Peter Kormos: I'm going to support it.

Mr. Dave Levac: The pleasure of the opposition is where I've always tried to land.

The Chair (Mr. Lorenzo Berardinetti): Okay. So no further discussion on this?

Mr. Dave Levac: We're okay with it.

The Chair (Mr. Lorenzo Berardinetti): This is on page 14, then. We were talking about the motion on page 14 moved by Mr. Dunlop. All those in favour? Opposed? Carried.

Mr. Dave Levac: How do you like that, Peter? Your power of persuasion has struck again.

Mr. Peter Kormos: Ten years from now, when many of us will no longer be alive—

Mr. Dave Levac: Somebody's going to say, "Why is that still there?" But it will go on record if the Liberals want to use some red tape and remove it.

Mr. Peter Kormos: Close the door when you leave.

Mr. Dave Levac: I was intrigued by your duel.

The Chair (Mr. Lorenzo Berardinetti): Duels are illegal.

Page 15.

Mr. Garfield Dunlop: I move that,

(a) subsection 10(4.3) of the Coroners Act, as set out in subsection 6(5) of the bill, be amended by striking out "if as a result of the investigation he or she is of the opinion that the person may not have died of natural causes" at the end;

(b) subsection 10(4.4) of the Coroners Act, as set out in subsection 6(5) of the bill, be struck out; and

(c) subsection 10(4.5) of the Coroners Act, as set out in subsection 6(5) of the bill, be amended by striking out "if as a result of the investigation he or she is of the opinion that the person may not have died of natural causes" at the end.

Our comment on that is that the motion will make an inquest mandatory when a person dies while committed to and on the premises of a correctional institution, or when a person is off the premises of a correctional institution but in the actual custody of a person employed at the institution, even if they die of natural causes. Doing so will ensure that faith in our correctional institutions is upheld.

The Chair (Mr. Lorenzo Berardinetti): Any discussion? We'll start with Mr. Kormos.

Mr. Peter Kormos: The existing provision, subsection 10(4) of the Coroners Act, is one that, as I under-

stand it, requires a mandatory inquest when somebody is in a correctional institution. The amendment in 10(4) specifically deletes the words "correctional institution," which is a provincial reformatory, amongst other things, and then has the qualified version of it in 10(4.3).

I recall the minister, at one point, arguing that we shouldn't have mandatory inquests because people could die just of old age in a correctional institution. I think that's rather unrealistic, because there aren't too many old people in correctional institutions. Garth Drabinsky will probably be one of the oldest people in the jail that he's going to.

Interjection.

Mr. Peter Kormos: From time to time, there are 70- or 80-year-olds.

When the state assumes responsibility by taking custody of a person, whether it's in a psychiatric hospital or whether it's in a jail, whether the person is there for treatment of their health or whether they're there because they're being punished—it seems to me that if the state is going to accept that role, then the person should expect to leave the institution when their time is up.

To be fair, the government has maintained mandatory coroners' inquests in a number of other parallel situations, with young offenders and so on.

I think it's a regrettable change in the law, and it won't serve us well. People shouldn't be dying in the custody of the state. If they do die, we should understand how and why they died, regardless of how old they are.

The Chair (Mr. Lorenzo Berardinetti): Mr. Levac.

Mr. Dave Levac: Let me start by agreeing with my colleague and indicating to him that I agree that no one should die in care, and when they do die in care, there should be something happening, which is why we'll not be supporting this—because that is going to happen.

There will be natural deaths of adults in custody, and we'll no longer require a mandatory inquest. But to be sure, and to repeat what has been said here in committee several times, the coroner will still have the ability, at his or her discretion, to call an inquest. That is not off the table.

What also is on the table, to reinforce this, is that there will still be mandatory investigations. At that point, there will still be an opportunity for the coroner, in his or her decisions, once they've investigated the death, to make the decision as to whether or not to move forward with an inquest. Under those circumstances, I believe it's the best use of their time. Don't forget, if they're not doing a mandatory inquest on every single death—the ones that are there when he decides in his investigation—the focus will be on the inquest that is absolutely necessary to ensure that things change as a result of the investigation and the inquest.

So I think we're getting the best of both worlds, under these circumstances, in the use of our authority.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion on the motion on page 15?

Mr. Peter Kormos: Recorded vote.

Ayes

Dunlop, Kormos.

Nays

Leal, Levac, Moridi, Qaadri, Rinaldi.

The Chair (Mr. Lorenzo Berardinetti): That does not carry.

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Mr. Peter Kormos: Chair, I suspect that moving the motion on page 16 would be futile. Let's move on to page 17.

The Chair (Mr. Lorenzo Berardinetti): So you're withdrawing? The one on page 16 is withdrawn by Mr. Kormos. We'll move on to page 17.

Mr. Peter Kormos: I didn't withdraw it. I'm just not moving it.

The Chair (Mr. Lorenzo Berardinetti): You're just not moving it. Okay, fine.

Mr. Levac?

Mr. Dave Levac: I move that subsection 6(5) of the bill be amended by adding the following subsections to section 10 of the Coroners Act:

"Death while restrained on premises of psychiatric facility, etc.

"(4.7) Where a person dies while being restrained and while detained in and on the premises of a psychiatric facility within the meaning of the Mental Health Act or a hospital within the meaning of part XX.1 (Mental Disorder) of the Criminal Code (Canada), the officer in charge of the psychiatric facility or the person in charge of the hospital, as the case may be, shall immediately give notice of the death to a coroner and the coroner shall hold an inquest upon the body.

"Death while restrained in secure treatment program

"(4.8) Where a person dies while being restrained and while committed or admitted to a secure treatment program within the meaning of part VI of the Child and Family Services Act, the person in charge of the program shall immediately give notice of the death to a coroner and the coroner shall hold an inquest upon the body."

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion?

Mr. Peter Kormos: We agree.

The Chair (Mr. Lorenzo Berardinetti): Okay. No more discussion? Let's vote, then.

All those in favour? All those opposed? Carried.

Page 18, Mr. Kormos.

Mr. Peter Kormos: I move that section 6 of the bill be amended by adding the following subsection:

"(6.1) Section 10 of the act is amended by adding the following subsection:

"Notice of death of worker while travelling

"(5.1) Where a worker dies while travelling, whether or not in a vehicle, for work-related purposes during working hours, the worker's employer shall immediately

give notice of the death to a coroner and the coroner shall hold an inquest upon the body."

I think that's reasonably self-explanatory. We're talking about a whole lineup of people in various state-related contexts—correctional facilities, psychiatric facilities and so on. Obviously, we're interested in people who are captivated by their working environment; that is, while they're performing a working duty. We think that this would be a healthy amendment that would address worker safety.

One of the examples and one of the issues that gives rise to it is, of course, the plight of migrant workers and the plight of workers like chicken catchers, who are trucked out to various work sites, notoriously in shabby vans with no seat belts, with holes in the floor, with carbon monoxide and other fumes seeping up into the vehicle. That's our motivation for this particular amendment.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any discussion? Mr. Levac.

Mr. Dave Levac: Again, while I appreciate the passion behind the request, the government will not be supporting it, but wants to point out a couple of things. Number one, a coroner can do an inquest in any death, and if there is a reason for the accident happening, anywhere, the coroner does have the capacity to hold an inquest. We are also talking about a very difficult circumstance, where the coroner's office may not have the capacity to do the types of inquests that are being requested in a mandatory way, with sheer volume, if we take a look at this and whether or not we have that capacity at this time. We want to make sure that we focus those resources as absolutely, as poignantly, as possible.

But I want to come back to the sensitivity to the points that the member is making, and that is, it's understood clearly that anyone who dies transporting themselves to and from work is a tragedy. Therefore, we want to reinforce the fact that the coroner does have the capacity to call an inquest under those circumstances—but under any circumstances, and to investigate, let alone do an inquest. So we're not going to be in favour of this particular amendment, but we are sensitive and appreciate what has been shared with the committee.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion?

Mr. Peter Kormos: Recorded vote.

Ayes

Dunlop, Kormos.

Nays

Leal, Levac, Moridi, Qaadri, Rinaldi.

The Chair (Mr. Lorenzo Berardinetti): That does not carry.

We'll move on to page 19.

Mr. Garfield Dunlop: I move that section 6 of the bill be amended by adding the following subsection:

“(6.1) Section 10 of the act is amended by adding the following subsection:

“‘Notice to Provincial Advocate for Children and Youth

“(7) A coroner who receives notice under this section of the death of a child or youth, as those terms are defined in the Provincial Advocate for Children and Youth Act, 2007, shall promptly notify the Provincial Advocate for Children and Youth in writing of the death.”

Our comments are that this motion will support the provincial advocate in his or her function of advocating for children in Ontario as well as strengthening accountability under this act.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion or debate? Mr. Levac.

Mr. Dave Levac: To be clear, the issue of access of information is definitely being discussed and currently being discussed by the coroner's office and the Provincial Advocate for Children and Youth in an attempt to establish an internal protocol which was committed to during these hearings and acknowledged by the advocate. The issue may also be addressed legislatively at a later date with the “good government” bill, which allows us to continue to add to those circumstances once those negotiations are finished. It's important to note that the provincial advocate for youth does not have legislative authority within the legislation to receive information from the coroner's office, which is part of that discussion. This information is considered personal and private, and as such, privacy concerns must be considered. The advocate has identified that as a reasonable request, but the discussions will continue and we'll probably see something of that dealt with in the “good government” bill.

So we will not be supporting it at this time but are sensitive to what the concerns are.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? So we'll take a vote, then. All those in favour of the motion? Opposed? It does not carry.

That ends section 6. I'll ask the question: Shall section 6, as amended, carry? Carried.

We move on to section 7. First motion, Mr. Dunlop.

Mr. Garfield Dunlop: I move that subsection 15(1) of the Coroners Act, as set out in subsection 7(1) of the bill, be amended by striking out “such investigation as, in the opinion of the coroner, is necessary in the public interest to enable the coroner” in the portion before clause (a) and substituting “such investigation as will enable the coroner”.

Our comments are that this motion removes the subjective words “in the public interest” to ensure that the coroner's investigation always provides the coroner with the necessary information to answer (a) to (c) of this subsection. The motion is in line with the existing act.

The Chair (Mr. Lorenzo Berardinetti): Any discussion or debate? Mr. Levac.

Mr. Dave Levac: We won't be supporting it because of the very logic that's being presented before us that it undershadows the public interest and quite possibly could elevate the private interest. Therefore we have to remind ourselves again that this isn't to find fault or provide ammunition for somebody else; it's to recommend for the improvement of public safety. The public interest needs to be front and centre with regard to what we're trying to accomplish in the Coroners Act with regard to investigations and inquests. The wording of subsection 7(1) is consistent with the inquest provisions relating to the public interest, so we're not going to support this. We believe it may lead to a slippery slope that we don't want to go down.

The Chair (Mr. Lorenzo Berardinetti): Any further debate? None? So we'll take a vote. All those in favour of the motion? Opposed? It does not carry.

We'll go to page 21. Mr. Dunlop.

Mr. Garfield Dunlop: This is another one based on some of the comments made by Terence Young.

I move that subsection 15(1) of the Coroners Act be amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c), and by adding the following clause:

“(d) to determine what, if any, prescription, non-prescription and illegal drugs are in the body of the deceased.”

This motion will ensure that when examining a body in undertaking an investigation, the coroner will determine whether the deceased body contains any forms of drugs.

The Chair (Mr. Lorenzo Berardinetti): Any discussion? Mr. Kormos and then Mr. Levac.

Mr. Peter Kormos: It's an attractive amendment, and it shouldn't be necessary because a diligent coroner would be doing precisely that, but we've heard story after story of coroners who were less than diligent and who weren't conducting those types of examinations in the course of their investigation, not even having determined yet whether or not to call an inquest. I say, that's truly regrettable.

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This bill isn't going to change the culture of aloofness, self-importance and indifference that seems to have developed around the coroner's office and also seems to have captured many local coroners—not all, but many local coroners. When you read between the lines of the stuff that people were telling us, the stuff that we received in written submissions and comments, we were hearing stories about coroners who were insensitive, quick to jump to conclusions and less than careful in their investigation of matters, to the point where people had to investigate stuff themselves. You heard the story of a young woman whose heart was destroyed, so it could never be examined when the decision was finally made to do a thorough examination. You heard how it was the pediatric death review team—remember?—that reported her death. It was only because she had acquired this con-

dition while she was a child that the pediatric death review team had jurisdiction over it.

As I say, this bill isn't going to address those concerns that I have and, I think, many people have about the coroner's office in the broader sense. It's regrettable. It's simple enough to say, "If coroners would do this anyway, then why not put it in the statute?"

Mr. Dave Levac: I'm going to pick up from what Mr. Kormos was alluding to without saying it, but I'll say it and then he can debate whether or not I'm saying it properly.

The bill's design is to respond to a certain case that took off in the province of Ontario with a recognition that there need to be some rather important changes and improvements to the Coroners Act which are not defined to take care of the specific coroner whom Mr. Kormos has heard and we've heard and he believes may need a wake-up call to do their job better. If this bill does pass, there are sections in this bill that will do just that, in our hopes. You cannot legislate the ability or inability of a coroner in their capacity to do their job well.

Speaking specifically to this amendment, I would respectfully suggest to you that because of the wording, it would mean that we would have to do an autopsy and toxicology for everybody. Under those circumstances, we would see ourselves into the millions and millions of dollars almost per person in the province of Ontario. It's an extremely expensive process, because the investigators, in part of their investigation, take an inventory, take into account how much they played a role in the death as far as making toxicology mandatory, subject to the investigation requirements as well as the internal protocols when toxicology should be ordered.

You're also talking about dealing with the coroner, the pathologist and the toxicologist. They meet daily to discuss the necessary toxicology that they're finding in each body after each autopsy. While the intent is, as Mr. Kormos pointed out, to encourage improvement of something that they're already supposed to be doing, we believe that, with the passage of the bill, if it does pass, we will capture that sentiment. But we do not believe that this amendment is going to be effective province-wide—not case-by-case, but province-wide—so we won't be supporting it.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None. Page 21, the motion, we'll take a vote. All those in favour? Opposed? That does not carry. That ends—

Mr. Garfield Dunlop: Number 22.

The Chair (Mr. Lorenzo Berardinetti): Before you get to that, I think that ends section 7. Shall section 7 carry? Carried.

We'll move on to section—

Mr. Peter Kormos: Please feel free to deal with sections 8 and 9.

The Chair (Mr. Lorenzo Berardinetti): Sections 8 and 9: Shall they carry? Carried.

Section 10. Mr. Dunlop.

Mr. Garfield Dunlop: This is another one on a recommendation of Terence Young. By the way, I think he's releasing his book on the 18th. Anyhow, he mentioned that day.

I move that section 18 of the Coroners Act, as set out in section 10 of the bill, be amended by adding the following subsection:

"Drugs

"(1.1) If, under clause 15(1)(d), the coroner determined that a prescription, non-prescription or illegal drug was in the body of the deceased, the statement referred to in subsection (1) shall identify the drug and list the risk factors associated with that drug."

This motion is related to a previous PC motion dealing with clause 15(1)(d) of the Coroners Act, and requires the coroner to inform the chief coroner, in a case where he or she determines that an inquest is unnecessary, what drugs were in the deceased's system as well as the risk factors. Doing so will help the chief coroner identify a pattern of death related to a specific drug, if any exists.

The Chair (Mr. Lorenzo Berardinetti): Mr. Dunlop, I'm just going to advise that because the one on page 21 didn't carry, this one is deemed redundant.

Mr. Garfield Dunlop: It's redundant?

The Chair (Mr. Lorenzo Berardinetti): It is, unfortunately.

Mr. Garfield Dunlop: Okay.

The Chair (Mr. Lorenzo Berardinetti): So we'll move on to page 23, and my apologies.

Mr. Garfield Dunlop: No, it's okay.

The Chair (Mr. Lorenzo Berardinetti): We're on page 23.

Mr. Garfield Dunlop: I move that subsection 18(3) of the Coroners Act, as set out in section 10 of the bill, be struck out and the following substituted:

"Availability to public

"(3) The chief coroner shall make the findings and recommendations of a coroner's investigation, which may include personal information as defined in the Freedom of Information and Protection of Privacy Act, available to the public in both printed and electronic formats."

This motion will enhance accountability and transparency, as recommended by Judge Goudge, by ensuring that the public is always informed of the findings and recommendations of a coroner's investigation.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion?

Mr. Dave Levac: Again, one of those understood ideas, but it doesn't set the reasonable threshold for the potential privacy issues. If the chief coroner reasonably believes that it is necessary in the interests of the public safety to do so, that's kind of the litmus test here so that we don't breach that threshold where the potential privacy issues would be breached on an ongoing basis. So we don't believe that this is the right way to go with this particular amendment. Although we try to be cognizant of the sensitivity of transparency, it's for the good of the public safety, and that's precisely why we do inquests

and investigations. We don't believe that that would be helpful, so we're not going to support the amendment.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? We'll take a vote on the motion on page 23. All those in favour? Opposed? That does not carry.

That ends section 10, so I'll ask the question: Shall section 10 carry? Carried.

Section 11: Shall section 11 carry? Carried.

Section 12: Before we start, Mr. Dunlop, the motion on page—

Mr. Garfield Dunlop: Is that redundant?

The Chair (Mr. Lorenzo Berardinetti): It's redundant because it was defeated earlier on, with page 21. So that one's deemed redundant and we move on to page 25, but before we do, I have to ask: Shall section 12 carry? Carried.

Section 13?

Mr. Peter Kormos: This, of course, is where the axis of evil begins in this legislation, because this is the notorious repeal of section 22 of the Coroners Act, which gives the minister the discretion to direct that an inquest take place. Section 22 of the existing legislation: "Where the minister has reason to believe that a death has occurred in Ontario in circumstances that warrant the holding of an inquest, the minister may direct any coroner to hold an inquest and the coroner shall hold the inquest into the death in accordance with this act, whether or not he or she or any other coroner has viewed the body, made an investigation, held an inquest, determined an inquest was unnecessary or done any other act in connection with the death." Interestingly, this repeal of section 22 should also be considered in the context of the amendments to sections 23 and 24: the repeal of 23 and the amendments to section 24.

The argument is that the minister has rarely used this discretion. Good; fine—nothing wrong with that, although I tell you this: The fact that the minister has rarely used it, I suspect, is more because of the political clout of chief coroners and the politicization of that office than it is because ministers haven't wanted to order that an inquest be held. It's the very nature of the beast. Again, the picture we're getting of the coroner's office is of a very aloof institution, coroners who consider themselves the be-all and end-all and who expect to be able to call the shots and have nobody doubt them ever, ever, ever. I bet you there are far more instances of chief coroners and their bureaucrats working over deputy ministers and ADMs than not, when a minister has—because how's a minister going to go about this? The minister, of course, is going to have his DM or ADM call the bureaucrats in the chief coroner's office and say, "What's the story here? Give us some background. Give us some material," and then all hell's going to break loose in the coroner's office. The chief coroner is going to say, "I'll be damned if I'm going to let some political flunky of a minister"—ministers come and go—"who may not even get re-elected next round or may not be a cabinet minister next round tell me how to run my office." You've been inside

these sorts of bureaucracies, haven't you, Chair? You know exactly how they operate. You were down at Metro city hall, for Pete's sake, at that cesspool of empire-building and turf protection.

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So that's what happens, and I'm sure there are more instances of ministers being beaten up by coroners. Of course, if the coroner can't get his way with the minister, the coroner will call the Premier's office and the Premier will take care of the minister, because that's how that's done. The minister will simply abandon any contemplation of using the power under section 22. It's regrettable that that's how the system works, but that's the nature, I suppose, of politicized bureaucracies.

The argument that it isn't used often, I say, is not a sound argument. I argue that it probably should have been used more often. Once again, take Jared's inquest down in Hamilton. The coroner is acting entirely within the law by ordering a joint inquest and no court is going to tell him—no court can tell him—that he can't do that, because that law is very, very clear in that regard. In my view, that was the ideal circumstance for the minister to recognize that justice and the dignity of a little boy who was murdered by his parent would best be served by not having that little boy's inquest conducted simultaneously with his murderer's. There's something just inherently repugnant about that, isn't there? There's something just foul about the fact that a kid who's a victim has his inquest conducted at the same time, in the same place and with the same jurors as the person who murdered him. It's at the very least distasteful, but it's entirely legal. And I argue that's why the minister should have this power. I argue that the minister should use it very sparingly and the minister shouldn't constantly be overruling or just automatically overruling coroners.

But ministers don't look at an issue and go home and contemplate or take long walks around Queen's Park; they rely upon their staff. They rely upon the legal staff, they rely upon counsel, they rely upon any number of resources that they have within their bureaucracies. Ministers don't sit at the word processor and type out the ministerial statements they give in the House. Harinder Takhar might, but others don't. They have bureaucracies that serve them: deputy ministers, ADMs, people who are civil servants, people who are apolitical, as well as political, staff.

This seems to me to be a safeguard, once again. The minister says, "Well, I'm not a doctor." It's not about being a doctor; it's about serving justice, and in many cases it's justice for the deceased—or justice for the little boy's mother and grandmother, who want to be able to have their story about domestic violence told so that a jury could maybe make recommendations to protect kids of parents who have violent relationships down the road.

I very specifically want to vote against section 13 of the bill, which repeals section 22. I find that's a most unfortunate turn of events. It's also the abandonment of power, and we've seen it increasingly. Pierre Trudeau said so many things that weren't as enlightened as he

would want people to believe, but he once made a comment, and this isn't an exact quote, that once a backbencher is 15 minutes away from Parliament, they're a nobody. That demonstrated his disdain for his backbenchers. But the reality is, never mind being 15 minutes away from Parliament Hill or the Legislative Assembly, when the cabinet minister is sitting in that front row, she or he is a nobody.

Increasingly, cabinet ministers want to be multiple-arm's-length from anything and everything. Indulge me for a minute. I remember when Evelyn Gigantes was forced to resign as Minister of Housing. What did Evelyn Gigantes do? There was a dispute in a non-profit housing co-op in Ottawa amongst the board members and Evelyn Gigantes attempted to mediate between the two warring factions as Minister of Housing. I thought, my God, what a delightful thing to do. Evelyn Gigantes had mediation skills and the sort of personality that could achieve that. I thought, "You're darn right the minister should be doing that." The minister should be rolling up his or her sleeves and maybe getting their hands a little dirty once in a while. She, of course, was forced to resign, because that somehow was deemed to be bizarre. I just don't understand it. It wasn't like Joan Smith going into the police station—that was long before your time; you were only a kid—

The Chair (Mr. Lorenzo Berardinetti): I remember that.

Mr. Peter Kormos: You were only a kid, though, when that happened.

Ministers are increasingly scripted, and the first thing a deputy minister tells a newly appointed minister is, "Just let me handle the scripting and so on, and we'll protect you. We'll cover you. Don't freelance. Don't ad lib." I think it's very sad.

In the 21 years that I've been here—and I watched it happen most significantly in the first Liberal government of 1985; I wasn't here at that point, but I saw it happen. It happened with Pierre Trudeau in Ottawa. A professor from out on the east coast has written a book called *The Concentration of Power*. Professor Grant—is it Grant? He's written a book. The power is increasingly monopolized in the Premier's office and controlled not even by elected people but by unelected people, and more often than not, not even by people who work here at Queen's Park or across the road, but people who are out there in high-rise, expensive, high-priced law firms, amongst other things. It's the flight from power. It's the flight from responsibility.

So you see ministers who—you know it as well as I do: Their briefing book is it. The briefing book is the answer, and wise ministers, at least those who want to keep their jobs, stick to the briefing book. They may be boring, they may be ineffective, they may not leave much of a legacy, but they're eminently successful at keeping their jobs and their cars and drivers.

We've seen this. I watched it in 1990 in the Rae government—again, more concentration of power in the Premier's office, so that by the time Mike Harris and

Ernie Eves came around, I found it more valuable to know the gatekeeper in the Premier's office—and I did; Ernie Eves had a very effective one for whom I have great regard. He was more important to know than any cabinet minister, because if you wanted something done, you spoke to him or you took him out for a coffee or dinner or, dare one do it, a drink over at Sutton Place—a unionized hotel.

This is part of that whole trend of events of ministers increasingly being irrelevant, and, indeed, not just backbenchers being nobodies but cabinet ministers being nobodies. They protect themselves from any blowback simply by saying, "I don't have the authority to do it." It's uncomfortable. I'm sure it is for the minister to have to respond to Andrea Horwath around Jared's Law—very uncomfortable. Because I suspect that the minister, in his heart, shares the same perspective about what's happening in Hamilton with Jared as Andrea Horwath and the mother and grandparents of that child. But he's been told, "Don't go near this. Don't touch it." Then he's had to submit himself to rather unpleasant grilling in question period and by the press.

This must be where you can wipe your brow now and relax, because here's one less question that a minister can be asked about. That means that ministerial responsibility is being eroded, because the minister can now say, "I have nothing to do with coroners' inquests, nothing whatsoever. Somehow I'm the Solicitor General, and somehow they're in the Solicitor General's broader bailiwick, but I have nothing to do with them. Don't talk to me, talk to the chief coroner. Oh, and if you don't like what the chief coroner tells you, go hire a lawyer and go to Divisional Court for a review," with the very limited jurisdiction that Divisional Court has in that type of judicial review.

That's not what parliamentary democracy is supposed to be all about, in my view. Maybe I'm just dating myself. Maybe I'm just old-fashioned about these sorts of things. But the abandonment, the repeal of section 22, is bad policy, in and of itself, but it's also bad policy because it's part of a direction, a general trend, which makes government and elected Parliaments far less effective.

1510

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Kormos. Just before I move on, the motion on page 26 is very similar to the one on—

Mr. Peter Kormos: These aren't motions. These are just reminders.

The Chair (Mr. Lorenzo Berardinetti): They're recommendations, let's say. The one on page 25, we just went over; that was Mr. Dunlop's. I think it's just giving notice that the Progressive Conservative Party recommends voting against this section as well. So shall we take these together or separately or—

Interjections.

The Chair (Mr. Lorenzo Berardinetti): We're not going to vote on these at all?

Mr. Peter Kormos: No. Go to page 29, but let's vote on section 13 of the bill, and I want a recorded vote.

The Chair (Mr. Lorenzo Berardinetti): Mr. Levac, did you want to make any comments before we do?

Mr. Dave Levac: I think it's important to do two things: number one, to explain that I don't subscribe to the characterization that Mr. Kormos made of this place. Although he knows that there are plenty of people who are soured to us, the collective "us," I don't subscribe to the description of what this legislation is, and in particular, what section 13—section 22—is. I want to make it clear: This coroner's problem, Dr. Smith's, created our need for a revision of the bill. This was the medical response. This was not the political response. This is to improve the Coroners Act so that we can move forward in ensuring that these things can get done. I want to stay focused on that.

Do I understand Mr. Kormos's point about the cynicism or the characterization that he's making? I understand it. I don't subscribe to it. I just don't think that it's that kind of pathetic of a circumstance. I don't hold that. I don't believe that. In my heart of hearts, I honestly believe that the things that all of us do as parliamentarians, as well as those staff that are assigned to the government of Ontario, hold to a higher cause, and hold to a higher way of thinking. So I just want it on record that I don't subscribe to that characterization.

Justice Goudge himself said, in conversation, after he saw the legislative inclusion of his recommendations that came out, that he no longer had concerns. It was not put in his report as being for or against 22, but when asked, after the legislative part of his report was put into this legislation, he indicated, "Now I can understand why you wouldn't want to do that." I don't know that we shouldn't be discounting some of the concerns that were being raised and then answered. I wanted to make sure that the answer was on the books.

As for the questions in parliament, there's absolutely going to be no reason whatsoever that an opposition member could not ask a question about a circumstance that's happened inside of the province, with an expectation that an answer would be delivered, other than to simply say, "Will you intervene"? Quite frankly, all of the other catches we're putting inside of this legislation might reduce that expectation of how many questions get asked, because the new system being put in place, proposed in the legislation, if requested and if we pass it, would probably be getting rid of a very large portion of what we're talking about today. I just wanted it on the record.

More importantly, in respect of my colleague's capacity to make his poignant and salient points, and entertain and make sure that people understand the position that he takes, I don't subscribe to them. I'm sure that a lot of us here don't have the same feeling as Mr. Kormos does, but I bow to his 22, 23 years of being in this place and watching the evolution of this place. I hearken to his advice of what to watch for, but I don't subscribe to his cynical expectations.

We'll be supporting section 13.

The Chair (Mr. Lorenzo Berardinetti): Thank you.

Mr. Peter Kormos: Recorded vote.

Ayes

Levac, Moridi, Qaadri.

Nays

Dunlop, Kormos.

The Chair (Mr. Lorenzo Berardinetti): Section 13 carries.

We'll move on, then, to section 14. There is, again—14 and 15 together.

Mr. Peter Kormos: No, no. We've got some talking to do about section 14.

The Chair (Mr. Lorenzo Berardinetti): Section 14—okay. So we're on page 20—

Mr. Dave Levac: There's no motion in 14. Who wants to talk about this section?

The Chair (Mr. Lorenzo Berardinetti): Mr. Kormos, you wanted to say something about section 14?

Mr. Peter Kormos: Yes. Repealing yet another section of the Coroners Act, and this is again a very interesting one, because it gives the minister the discretionary power—once again, we're repealing a minister's power—to appoint a commissioner to conduct an inquest in the place of a coroner and, furthermore, that the coroner may be called before the commissioner and shall be deemed to be a person with standing, shall have standing.

Coroners are doctors and coroners hold coroners' inquests almost in the role of a judge. Now in most jurisdictions the crown attorney—the Ministry of the Attorney General is the coroner's counsel, if you will, and you have a jury that makes their conclusions. It's my view, and maybe some of the folks here have a different view, that a commissioner enables the minister, I presume under the current section 23, to—I don't want to say "elevate" the proceedings, but in the event that a situation might be one that implicates the coroner's office, the coroner perhaps could not be perceived as being entirely neutral. This means the minister can appoint a commissioner.

I think, again, it's a valuable tool. I have no idea how many times that's taken place. I don't know if there's data—but I have no idea whatsoever. But it seems to me to be a safeguard that's built into the legislation that has some value. Again, it's not to say that any minister is going to quickly invoke that section. As I say, I've never heard of that section being invoked. But it just seems to me, if you want to talk about safeguards and protecting the interests of the public, to be a valuable thing. I wonder what, then—perhaps, Mr. Levac, the rationale for repealing it. I just find that section 23 is an interesting section of the Coroners Act.

The Chair (Mr. Lorenzo Berardinetti): Mr. Levac, do you have any comments? It's up to you.

Mr. Dave Levac: In my discussions with the more learned people who are involved in the depth of the Coroners Act, our decision is the way it is. I don't have—

Mr. Peter Kormos: Fair enough.

Mr. Dave Levac: To be very blunt, I don't have the rationale.

Mr. Peter Kormos: Fair enough.

Mr. Dave Levac: I'll do an undertaking for you, Mr. Kormos, if that would be helpful, but we're voting, so—

Mr. Peter Kormos: I know, but even after the fact.

Mr. Dave Levac: I hear your point.

Mr. Peter Kormos: Let's have a little post-mortem of our own.

Mr. Dave Levac: I hear your point, and the short answer is, I'll do that with you.

Mr. Peter Kormos: Recorded vote, please.

The Chair (Mr. Lorenzo Berardinetti): All right—

Mr. Peter Kormos: Do you want to have a two-minute recess?

The Chair (Mr. Lorenzo Berardinetti): Mr. Dunlop stepped out and he didn't tell me he was going to come back—I'm at the will of—

Mr. Peter Kormos: He's younger than Mr. Levac or me so it shouldn't take him very long at all.

Mr. Dave Levac: Although I would say I would be longer; I do confess to that. If you want to recess for a few minutes, I'm okay, but—

Mr. Peter Kormos: Here he is. No, that's not Mr. Dunlop; that's Mr. Leal.

You know what? A four-minute recess would accommodate more than a couple of people.

The Chair (Mr. Lorenzo Berardinetti): All right. We'll recess until 3:20.

The committee recessed from 1517 to 1521.

The Chair (Mr. Lorenzo Berardinetti): I call the committee back to order. We're just about to vote on section 14.

Mr. Peter Kormos: Recorded vote.

Ayes

Leal, Levac, Moridi.

Nays

Dunlop, Kormos.

The Chair (Mr. Lorenzo Berardinetti): The section carries.

Section 15, Mr. Kormos.

Mr. Peter Kormos: Once again, stripping away the ministerial power and creating a disconnect between the Solicitor General, supposedly responsible for the Coroners Act, and anything that is or may be done under the Coroners Act. We're opposing this and asking for a recorded vote.

The Chair (Mr. Lorenzo Berardinetti): Any other comment? We'll vote, then, on section 15.

Ayes

Leal, Levac, Moridi.

Nays

Dunlop, Kormos.

The Chair (Mr. Lorenzo Berardinetti): The section carries.

We'll move on to section 16.

Mr. Peter Kormos: Chair, if I may, here we go again.

The Chair (Mr. Lorenzo Berardinetti): Mr. Kormos.

Mr. Peter Kormos: The minister's discretion is eliminated, as it is in section 17. I ask for a recorded vote on 16.

Ayes

Leal, Levac, Moridi, Qaadri.

Nays

Dunlop, Kormos.

The Chair (Mr. Lorenzo Berardinetti): The section carries.

We'll move on to section 17.

Mr. Peter Kormos: Recorded vote, please.

Ayes

Leal, Levac, Moridi, Qaadri.

Nays

Dunlop, Kormos.

The Chair (Mr. Lorenzo Berardinetti): That section carries.

We'll go, then, to section 18.

Mr. Dave Levac: I move that subsection 28(2) of the Coroners Act, as set out in section 18 of the bill, be struck out and the following substituted:

"Other examinations and analyses

"(2) A coroner may at any time during an investigation conduct examinations and analyses that the coroner considers appropriate in the circumstances or direct any person, other than the pathologist to whom the warrant is issued, to conduct such examinations and analyses."

The Chair (Mr. Lorenzo Berardinetti): Any discussion? None? So we'll vote on it. All those in favour of the motion? Opposed? It carries.

We'll move on to page 30. This is an NDP motion.

Mr. Peter Kormos: I move that section 28 of the Coroners Act, as set out in section 28 of the bill, be amended by adding the following subsection:

"Same

"(3.1) The pathologist who performs the post mortem examination shall, if the death was unexpected or sus-

picious, conduct or direct the conducting of such examinations and analyses as are available to assist in determining,

“(a) what drugs were in the deceased’s body at the time of death, including prescription drugs, other drugs that are legally available and other drugs that are not legally available; and

“(b) whether the deceased’s death was related to a disease where timing is suspect,

“having particular regard to known risks and associations such as acts of violence and SSRI anti-depressants.”

This is a response to some of the very interesting submissions made, in the last instance, by Terence Young, along with other family members of deceased persons. It’s related to the whole argument about iatrogenic deaths. You’ll note that this is not every investigation, but it’s only at that point when a pathologist is actually performing a post mortem.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Levac?

Mr. Dave Levac: Again, as much as that has tried to be condensed, the conducting of the tests where there are no indicators that drugs were taken or related to the death would be unnecessary and not necessarily medically meaningful. It’s based on best evidence, not routine, and under the circumstances—we also heard through research that there are an increased number of courses, workshops and educational components to try to ensure that all of the best science and the best means for detecting these situations are there.

Investigating coroners do, as part of their investigation, take an inventory of the medications and take into account how they play a role in the death. So my assumption here, as we continue to find out more about this drug issue, is that the courses, the updates and the information available to the coroners who have to take care of the known prescription drugs and any other drugs that they’re taking through family interviews—that’s part of their investigation.

We won’t be supporting this but understand carefully the deputations that were made in bringing to light the circumstances that the coroners should be facing.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion on this?

Mr. Peter Kormos: Recorded vote.

Ayes

Dunlop, Kormos.

Nays

Leal, Levac, Moridi, Qaadri, Rinaldi.

The Chair (Mr. Lorenzo Berardinetti): That does not carry.

Mr. Levac—

Mr. Dave Levac: I move that section 28 of the Coroners Act, as set out in section 18 of the bill, be amended by adding the following subsection:

“Notice to coroner

“(4.1) A pathologist who exercises a power under subsection (4) shall notify,

“(a) the coroner who issued the warrant; or

“(b) if no warrant has been issued, the coroner by whom the pathologist believes the warrant will be issued.”

1530

The Chair (Mr. Lorenzo Berardinetti): Any discussion? We’ll take the vote, then. All those in favour? Opposed? Carried.

On page 32, the motion.

Mr. Garfield Dunlop: I move that subsection 28(5) of the Coroners Act, as set out in section 18 of the bill, be struck out and the following substituted:

“Other examinations and analyses

“(5) The pathologist who performs the post mortem examination may,

“(a) conduct such other examinations and analyses as the pathologist considers appropriate in the circumstances; or

“(b) if the warrant issued under subsection (1) so provides and the coroner agrees, direct any person other than a coroner to conduct such other examinations and analyses as the pathologist considers appropriate in the circumstances.”

This came from the Ontario Coroners Association. The motion will ensure that if a pathologist directs another individual to conduct other examinations or analyses, the coroner will not only have provided the authority under the warrant, but will also consent. Doing so ensures communication between the parties that all the tests are relevant.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any other discussion?

Mr. Dave Levac: We won’t be supporting the amendment. However, we want to point out clearly that we’ve already amended the bill to include the communication piece that everyone is talking about, and the proposed amendment narrows the ability and discretion of the pathologist to direct others to perform the necessary examinations and analyses required in the circumstances. It would also require that the pathologist obtain a coroner’s consent before directing others to perform the necessary examinations and analyses pertaining to the post mortem. I think what we’re saying here is that we’re already covering that off and we believe that it does narrow the discretion and the ability of the pathologist, so we won’t be supporting the amendment.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further debate? None. So we’ll take a vote: All those in favour of the motion? Opposed? That does not carry.

Page 33?

Mr. Dave Levac: I move that subsection 29(2) of the Coroners Act, as set out in section 18 of the bill, be amended by striking out “A person who conducted any

other examination or analysis specified by the coroner or the pathologist under section 28" and substituting "A person, other than the pathologist who performed the post mortem examination, who conducted any other examination or analysis under section 28".

This is in response to the coroners' association, in capturing the essence of what it was that we talked about in the previous amendment.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Debate? All those in favour? Opposed? That carries.

Page 34, Mr. Kormos.

Mr. Peter Kormos: I move that section 29 of the Coroners Act, as set out in section 18 of the bill, be amended by adding the following subsections:

"Death related to health treatment

"(2.1) A report under subsection (1) or (2) shall indicate whether the person making the report is of the opinion that treatment by a member of a college within the meaning of the Regulated Health Professions Act, 1991 contributed to the death.

"Same

"(2.2) Without limiting the generality of subsection (2.1), treatment includes prescribing or recommending a drug."

Again, this is in response to the discussion about iatrogenic deaths.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Levac?

Mr. Dave Levac: While we understand that it is in response to the iatrogenic deaths, the problem with the amendment, which we won't be supporting, is that for practical purposes—in the vernacular that Mr. Kormos would suggest—they become quasi-police to pathologists and coroners. It changes the nature of their role under the act and it speaks against the spirit of the previous amendments we passed collectively to open up the communication between all of those sectors. So we won't be supporting the amendment.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion? None?

Mr. Peter Kormos: Recorded vote, please.

Ayes

Dunlop, Kormos.

Nays

Leal, Levac, Moridi, Qaadri, Rinaldi.

The Chair (Mr. Lorenzo Berardinetti): That does not carry. Shall section 18—

Mr. Peter Kormos: No, just a minute.

The Chair (Mr. Lorenzo Berardinetti): Sorry, Mr. Kormos. Do you wish to speak to the section?

Mr. Peter Kormos: The effective repeal of section 29—just for information's sake, is the pituitary gland no longer used in growth hormone deficiency?

The Chair (Mr. Lorenzo Berardinetti): I'm sorry?

Mr. Peter Kormos: Is the pituitary gland no longer used in growth hormone deficiency?

Mr. Dave Levac: It's my understanding that it is not.

Mr. Peter Kormos: When did it stop?

Mr. Dave Levac: I will defer to expert—

Mr. Peter Kormos: Again, this is just an interesting historical thing. I don't know how long that section has been effective, but in the context of the whole organ donation thing, it gives people performing the post-mortems the authority to, as they say, harvest pituitary glands.

Interjection.

Mr. Dave Levac: Fifteen to 20 years.

Mr. Peter Kormos: So people can now go to their graves with their pituitary glands intact.

Mr. Dave Levac: Without having them harvested.

Mr. Peter Kormos: All sorts of Ontarians are just elated.

Mr. Dave Levac: I would say yes.

Mr. Peter Kormos: If you want my pituitary gland, Dave, come and get it, in due course.

Mr. Dave Levac: I'm hoping, Mr. Kormos, that it would be reversed, because I'd like to have you stay a lot longer than I probably will.

Mr. Peter Kormos: It would tick off a whole lot of people if I did. I'm reminded of that Monty Python skit about the organ donor card.

Mr. Dave Levac: Carry on, Mr. Chairman. He got me in a soft spot.

The Chair (Mr. Lorenzo Berardinetti): All right. Shall section 18, as amended, carry? Carried.

Sections 19, 20, 21, 22, all the way up to 27: Is it okay to keep them together?

Mr. Peter Kormos: Feel free.

Mr. Dave Levac: I'm in.

The Chair (Mr. Lorenzo Berardinetti): Shall sections 19 to 27 carry? Carried.

That brings us to section 28 and page 35. Mr. Levac.

Mr. Dave Levac: I move that subsection 56(1) of the Coroners Act, as set out in section 28 of the bill, be amended by adding the following clause:

"(e.1) defining 'restrain' for the purpose of subsections 10(4.7) and (4.8);"

I think we know why we're doing that from the previous amendment.

The Chair (Mr. Lorenzo Berardinetti): Any discussion or debate? No? All those in favour? Opposed? Carried.

Page 36: Mr. Levac.

Mr. Dave Levac: I move that subsection 56(2) of the Coroners Act, as set out in section 28 of the bill, be amended by adding the following clause:

"(h) requiring and governing the disclosure, collection and use of information, including personal information within the meaning of the Freedom of Information and Protection of Privacy Act, about coroners, pathologists and other members of the College of Physicians and Surgeons of Ontario among the chief coroner, the chief

forensic pathologist, the oversight council and the College of Physicians and Surgeons of Ontario.”

I don’t think I need to explain that and I won’t, unless there’s a question.

The Chair (Mr. Lorenzo Berardinetti): Any discussion? None? All those in favour? Opposed? Carried.

Page 37 is a government motion. Mr. Levac.

Mr. Dave Levac: I move that section 28 of the bill be amended by adding the following subsection:

“(2) Section 56 of the act is amended by adding the following subsection:

“Non-application of Legislation Act, 2006, part III

“(4) Part III (Regulations) of the Legislation Act, 2006 does not apply to,

“(a) any rules made by the chief forensic pathologist respecting the maintenance of the register of pathologists under section 7.1 or the authorization of pathologists to provide services under this act; or

“(b) the rules of procedure for inquests made by the chief coroner under section 50.1.”

The Chair (Mr. Lorenzo Berardinetti): Mr. Kormos.

Mr. Peter Kormos: I’ve got to ask about this. What does it mean?

Mr. Dave Levac: It’s a technical standard, a provision used in conjunction with rule-making powers that exist. It’s necessary in order to avoid the procedural steps involved in treating rules as regulations and making sure that a rule that is applied by the chief coroner or the chief forensic pathologist doesn’t constitute a regulation. So we need to separate the two. Bill 115 confers the authority on the chief coroner to make rules with respect to procedure at inquests, not regulations.

Mr. Peter Kormos: Quite right: “50.1 The chief coroner may make additional rules of procedure for inquests.”

Mr. Dave Levac: For inquests. If there’s a procedural—

Mr. Peter Kormos: Yes, but why do we need this section? Section 50.1 seems to be very clear and unequivocal.

Mr. Dave Levac: I’ll defer, but I’ll tell you what my understanding is, and then I’ll either be a lawyer by the end of this or not. That is, inside of the Legislation Act of 2006, it says that anyone who has these authorities of the regulatory stream—and we’re making a differentiation between regulation and rules. We’re keeping them out of the Legislation Act.

I’ll defer back to see if I’ve come close to being a lawyer.

1540

The Chair (Mr. Lorenzo Berardinetti): Does staff wish to comment upon it? If you could just come forward and identify yourself again, please.

Mr. Dave Levac: I’m just curious to see if I was close.

Mr. Jay Lipman: I would say so. The Legislation Act—

The Chair (Mr. Lorenzo Berardinetti): I’m sorry, if you could just identify yourself again for Hansard.

Mr. Jay Lipman: Jay Lipman, counsel, Ministry of Community Safety. The Legislation Act says that any rule, bylaw, order—various things—is a regulation for the purposes of that act, meaning that it has to be filed with the registrar of regulations, it needs to be published on e-Laws and so on. In order to avoid those requirements for rules, you have to in effect override part III of the legislation—and it’s very common to do so.

The most common place you’ll see it is in the Statutory Powers Procedure Act. First of all, the act authorizes tribunals to make rules and procedure. Section 25.1 of that act says that all of those rules made by a tribunal are not caught by the Legislation Act—the same provision that we have.

Mr. Peter Kormos: A tribunal, like a WCAT, has rules of procedure.

Mr. Jay Lipman: Yes.

Mr. Peter Kormos: Is that a good idea? Because if they’re published, then people have access to them in a ready manner, right? If they’re on e-Laws, people have ready access to them. Of course, I hear you, and you see, it’s a pattern, but I’m saying, is it a good pattern? Why shouldn’t rules of procedure for an inquest be published in the same way as any other regulation? You’re not detracting from the power of the chief coroner to make those rules, right? That office clearly has that power. So why would you want them not to be published like other regulations?

Mr. Jay Lipman: I think it’s a process issue and I think that rules of procedure of a tribunal or the coroner would be readily available to the parties who are intending to participate in an inquest and so on. So you’re right, it’s not as broadly published. But I think that they put them on websites and they do other things to make them available.

Mr. Peter Kormos: Okay. Thank you.

Mr. Dave Levac: Chair, can I just—

The Chair (Mr. Lorenzo Berardinetti): Mr. Levac?

Mr. Dave Levac: Because I do believe that we need to be clear about this, I have a curious question, and that is, the rules apply to each inquest so that the rules are not consistent and standard rate? I can just drop these rules, and no matter what, every inquest has to do it this way, and each inquest brings rules—or not?

Mr. Jay Lipman: I think the intention would be that it’s more like the rules of a tribunal, which are the rules that will always govern. That doesn’t mean that the presiding coroner can’t make specific rules.

Mr. Dave Levac: That’s what I was getting at, that if a coroner makes a rule pertaining to the specific case that he or she is investigating, because of circumstances, they need to put this rule in. We would then be holding things up by going through the rest of the process according to the Legislation Act. You’d have to do other things before you could get those rules laid out and submitted to everybody else.

Mr. Jay Lipman: I think the primary concern is about the general rules—not the rules that are made by a coroner while presiding at an inquest, but the general rules—

and keeping them up to date. The problem is they have no legal effect if they're regulations and they're not filed, right? So it is sort of an administrative burden to do this, which is what we're trying to overcome.

Mr. Dave Levac: I'm still going to support it.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your explanation, sir.

The government motion on page 37: All those in favour of the motion? Opposed? The motion carries.

Shall section 28, as amended, carry? Carried.

Shall section 29 carry? Carried.

Section 30—

Mr. Peter Kormos: I'm not moving any amendments to section 30.

The Chair (Mr. Lorenzo Berardinetti): All right, fine. Shall section 30 carry? Carried.

Shall section 31 carry? Carried.

Shall the title of the bill carry? Carried.

Shall I report this bill, as amended—

Mr. Peter Kormos: One moment, Chair.

The Chair (Mr. Lorenzo Berardinetti): Mr. Kormos.

Mr. Peter Kormos: This has been an interesting exercise. Dr. Smith and his butcher's approach—no, I have more respect for butchers. He's beyond negligent: malicious and mean-spirited. He's not only a disturbing person; I suspect he's disturbed as well. He has sent so many innocent people to jail. That is of course what prompted the Goudge inquiry, and this is a response to the Goudge inquiry.

I have a great deal of respect for Judge Goudge. One of the interesting things, though, in my view, that has been said is that Smith didn't operate in a vacuum. Crown attorneys loved getting convictions, and they got them with Dr. Smith. I shouldn't even call him Dr. Smith because I have more respect for doctors. Police loved him because he gave evidence that supported the often-times tunnel vision that police get when they're conducting an investigation. They focus on one person as an accused, and rather than looking at other possible suspects and rather than looking for evidence that exculpates that person, they only want evidence that convicts them. Judges—good God, judges couldn't sense a pattern here? High-priced judges were accepting Smith's evidence. They were doing the convicting.

They were sending the convicted people off to lengthy jail terms, and jail terms that, I don't have to tell you, are very unpleasant. I don't care how tough you are; you go to—because most of these convictions resulted in penitentiary sentences—Millhaven for killing your baby by shaking it, and you do what is colloquially called “hard time.” The phrase “hard time” doesn't begin to describe what your daily life is in that prison.

This is a response to Goudge, but I say it's not a real response to the whole Smith fiasco. He had peers. He had colleagues. He had ministerial oversight, deputy ministers and ADMs who were making inquiries about that office. A whole lot of people were collaborators in the misdeeds of Dr. Smith: police, crown attorneys, judges, bureaucrats, other pathologists and the College of Physicians

and Surgeons. Smith should have been turned in to the College of Physicians and Surgeons a long time ago. One wonders why not a single doctor—not a single doctor—had the gumption to turn him in, because surely there were people out there who were suspicious.

I agree that there are two elements of this. The technology has changed. Now, a whole lot of the causation of baby deaths, baby shaking amongst other things—what was state-of-the-art technology back when I was a lawyer 25 or 30 years ago clearly became outdated. Here it's not just the technology changing—that was part of Goudge's considerations—or the science changing. It was this guy, Smith, making a good living by maliciously and falsely convicting people.

I've often said and always believed that there's only one thing more abhorrent than a criminal who perpetrates a vicious crime going free, and that's an innocent person being found guilty. Can you imagine? Can you imagine for just a minute what it must have been like for any one of those innocent people to hear a judge or a jury say, “I find you guilty as charged. By the way, you're sentenced to eight years in a penitentiary”? Of course, these people plead innocence, and they cry out that they're innocent, and we don't believe them, because a doctor gave evidence. We just dismiss these people as justifying their conduct.

I'm sure you know that the person who insists on their innocence has little likelihood of getting parole because they don't show the necessary contrition and remorse. So these same people—because, come on, to kill your own child is in and of itself a heinous act, a depraved act. But to admit to killing your child when you didn't just to get parole is something that good people are likely to be incapable of doing. A good person wouldn't want to admit to killing their child under any circumstances, would they? So these people were denied parole because they wouldn't admit to killing their child, and all the while, high-priced help stood by and watched and watched and watched.

This bill doesn't address that. This bill doesn't address the ivory tower culture, the “we know better than you” culture. It doesn't address the tunnel vision in our criminal justice system that leads to false convictions because the police focus on—and they get a mindset. As I say, they dismiss exculpatory evidence. In the days when many of these convictions took place, before the charter had matured, you didn't even have disclosure to defence counsel. So the police and the crown didn't have to provide defence counsel with any exculpatory evidence. Now they do, of course; it's a charter argument if they don't.

I'm pleased to have been involved in this, but I'd be more pleased if there was greater acceptance of responsibility by all of the players in the trail of carnage that Smith left behind. If anybody belongs in a cell at this point, it should be Smith, for as long as he could possibly be kept, and quite frankly, sharing it with the meanest, toughest, ugliest, tattooed biker that ever walked this earth.

The Chair (Mr. Lorenzo Berardinetti): Shall I report—

Mr. Dave Levac: I do have—

The Chair (Mr. Lorenzo Berardinetti): My apologies, Mr. Levac.

Mr. Dave Levac: No problem; I understand. I'm always interested and listen intently to Mr. Kormos. Under some of the circumstances in terms of what he was indicating, that he doesn't think the bill will address certain things, that may be the fact. There always is legislation to improve. There is legislation that has existed for an awful long time that has not been improved. I think, on a go-forward basis, the very fact that this did become a celebrated case and the bushel basket was removed—I do believe that there are segments of this particular act that would address some of the concern that Mr. Kormos has expressed. The characterization, again, of some of those people, I don't necessarily subscribe to, but I would also acknowledge that there's more to do and there are better ways to do the things that we've always done, and hopefully, we will continue to do that.

I wanted to spend just a short moment to thank each and every one of the committee members for their thoughtful diligence, their thoughtfulness in the amendments and the attempts to improve the legislation. I requested that we try to find those common areas where we could agree and move forward.

I also want to thank staff. I want to thank, in particular, most importantly, those who bared their souls in front of us and made deputation either on a personal level or a professional level to try to improve the case of what the coroner does in the province of Ontario for the safety of our communities. I would also ask that we keep in our minds tomorrow—which is those people who continue to receive the type of treatment that no one should receive and that we continue to dig as deep as we can to make it better.

I'm not trying to just use Pollyannaish language. I'm trying to pull together some of the important thought that

needs to be put out there to insist that we try to do our best. So I compliment all of those particular people who brought to us strong recommendations. As the process goes, as Mr. Kormos knows and Mr. Garfield Dunlop knows, these are difficult things to kind of navigate through. We try to do the best we can and I wouldn't want to characterize anyone as not trying to do the best.

Can we do better? The short answer is yes, and I think we will do better as we go through. It won't always be the members of the Liberal Party sitting across here—it hasn't always been, it won't always be in the future—it'll happen to all of us, and I think we should leave charged with trying to find the best pieces of legislation we can. So I thank each and every one of you for the work that you've done.

The Chair (Mr. Lorenzo Berardinetti): Mr. Leal?

Mr. Jeff Leal: I'll just take a moment to respond to Mr. Kormos. One of those people who was charged was a constituent in my riding, Brenda Waudby, who was unfairly accused of murdering her daughter, baby Jenna. She met with me on a number of occasions, and I don't have the appropriate words to describe what she shared with me during what—as a father of two children, I mean—was the most traumatic experience that a parent could ever go through. She avoided jail because there was still the police investigation that was ongoing, and I guess, if there is a silver lining in her case, she was not put in jail. But I appreciate your comments, and I know what she went through.

The Chair (Mr. Lorenzo Berardinetti): No further comments?

Shall I report the bill, as amended, to the House? All those in favour? Opposed? Carried.

Do I have a motion to adjourn?

Mr. Dave Levac: Adjourn. Just adjourn.

The Chair (Mr. Lorenzo Berardinetti): Thank you, everybody.

The committee adjourned at 1553.

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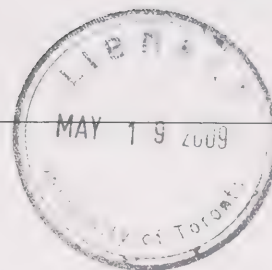
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Official Report of Debates (Hansard)

Thursday 7 May 2009

Journal des débats (Hansard)

Jeudi 7 mai 2009

Standing Committee on Justice Policy

Tobacco Damages
and Health Care Costs
Recovery Act, 2009

Comité permanent de la justice

Loi de 2009 sur le recouvrement
du montant des dommages
et du coût des soins de santé
imputables au tabac

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 7 May 2009

Jeudi 7 mai 2009

The committee met at 1402 in committee room 1.

The Chair (Mr. Lorenzo Berardinetti): I'd like to call this meeting to order. Good afternoon, and welcome everybody to the Standing Committee on Justice Policy. On today's agenda, we're dealing with Bill 155, An Act to permit the Province to recover damages and health care costs incurred because of tobacco related diseases and to make a complementary amendment to the Limitations Act, 2002.

SUBCOMMITTEE REPORT

The Chair (Mr. Lorenzo Berardinetti): The first item on the agenda is the report of the subcommittee dated April 24, 2009. Mr. Leal?

Mr. Jeff Leal: I think Mr. Rinaldi's going to move it.

The Chair (Mr. Lorenzo Berardinetti): Mr. Rinaldi?

Mr. Lou Rinaldi: Your subcommittee on committee business met on Friday, April 24, 2009, to consider the method of proceeding on Bill 155, An Act to permit the Province to recover damages and health care costs incurred because of tobacco related diseases and to make a complementary amendment to the Limitations Act, 2002, and recommends the following:

(1) That the committee hold one day of public hearings at Queen's Park on Thursday, May 7, 2009, during its regularly scheduled afternoon meeting time.

(2) That the committee clerk, with the authorization of the Chair, post information regarding the committee's business as soon as possible on the Ontario parliamentary channel and the committee's website.

(3) That interested people who wish to be considered to make an oral presentation on Bill 155 should contact the committee clerk by 12 noon, Friday, May 1, 2009.

(4) That groups and individuals be offered 15 minutes in which to make a presentation.

(5) That on Friday, May 1, 2009, the committee clerk provide the subcommittee members with an electronic list of all requests to appear.

(6) That if all groups can be scheduled, the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties.

(7) That, if all groups cannot be scheduled, each of the subcommittee members provide the committee clerk with a prioritized list of names of witnesses they would like to hear from by 4 p.m., Friday, May 1, 2009, and that these witnesses must be selected from the original list dis-

tributed by the committee clerk to the subcommittee members.

(8) That the deadline for written submissions be 5 p.m., Wednesday, May 6, 2009.

(9) That legislative research prepare a brief paper on the rationale for the legislation.

(10) That the committee determine the deadline for filing amendments on Thursday, May 7, 2009.

(11) That the committee meet for one day of clause-by-clause consideration on Thursday, May 14, 2009, in the afternoon. If there are few witnesses scheduled, the committee may consider beginning clause-by-clause consideration on May 7, 2009.

(12) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

That's your subcommittee report, Chair.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any discussion?

Mr. Lou Rinaldi: Chair, knowing that there are only four deputants today, and as discussed in your subcommittee report, number 11, I wonder whether we will be able to give consideration to the clause-by-clause today. I see Mr. Kormos nodding away.

Mr. Garfield Dunlop: That was going to be my question, Mr. Chair. I've been here 10 years now and I've never seen this happen before, where we included clause-by-clause on the day we started third reading debate. I thought we had to have prepared amendments. How do I know that someone from here may not approach my office on Monday or Tuesday with an amendment they'd like to see put forward? They'd be out of luck if we started clause-by-clause today. So you can do what you want, but I won't be supporting that.

The Chair (Mr. Lorenzo Berardinetti): Mr. Kormos?

Mr. Peter Kormos: I'm prepared to proceed to clause-by-clause today. I don't contemplate presenting any amendments. But if one caucus is not prepared to do that, then I think it creates a problem in terms of being fair to that caucus if it contemplates or anticipates—or even if there's a possibility of it presenting amendments and needing time to prepare.

I should tell you that I know this was considered in passing in the House leaders' meeting yesterday, and I

indicated to the government House leader at that time that we, the New Democrats, didn't anticipate any amendments. I don't want to tell you that there was a firm commitment from the Conservatives. Mr. Dunlop may want to check and see if there was a commitment made by Ms. Witmer in that regard. I don't want to speak for Ms. Witmer.

1410

Mr. Garfield Dunlop: If I may, Mr. Chair—

Mr. Peter Kormos: I don't want to put you on the spot, Mr. Dunlop.

Mr. Garfield Dunlop: It's my understanding that we were not prepared to go to clause-by-clause today. If you vote me down, that's not a problem, but the reality is, we can't support that.

The Chair (Mr. Lorenzo Berardinetti): Go ahead, Mr. Kormos.

Mr. Peter Kormos: If I can be of assistance, the government wants to get this in third reading, obviously, to get the litigation going. What we will do, I'm telling you, is agree to, through an order of the House on consent, have this committee meet, if necessary, even before next Thursday afternoon or next Thursday to deal with clause-by-clause, if the government needs this bill earlier than June 4 for the purpose of pursuing the litigation. I don't know whether the Conservatives are in that position or not.

The Chair (Mr. Lorenzo Berardinetti): Mr. Rinaldi?

Mr. Lou Rinaldi: Then I would offer that we carry on. If Mr. Dunlop, at the end of the proceedings today, is prepared to rethink or whatever the case may be, then we'll deal with it at that time. I certainly don't want to jeopardize the proceedings.

Mr. Garfield Dunlop: What I'm concerned about is just the rights of people to approach me as an elected member with potential amendments over the weekend, early in the week. I thought we had planned on two days of this—the committee hearings—then clause-by-clause next week. That would have given us time to prepare amendments, if they were necessary.

You guys have been here for six years. If this bill was so important to you, you could have done more work on this earlier. I don't think it's going to be the end of the world here if you have to wait a week.

Mr. Peter Kormos: Paragraph 11 of the standing committee report indicates that it was agreed upon that if there are few witnesses scheduled, the committee may consider beginning clause-by-clause consideration. I appreciate that it says "may," and that gives Mr. Dunlop the opportunity—or the right, in my view—to block that. But this isn't new; this is something that the subcommittee considered way back on April 24.

Mr. Lou Rinaldi: Just as a final comment, I think we should carry on. I stand by the comment I made before. To Mr. Dunlop's comments about people having the opportunity to get a hold of their MPPs or the government side, this had first and second reading, the dates had been advertised, and I can tell you, just as an experience, most people get a hold of me the minute we introduce

legislation to express their opinion. But anyway, I think we should carry on with dealing with these folks here today who have committed their time. At the end of that, we should revisit whether we do clause-by-clause today.

The Chair (Mr. Lorenzo Berardinetti): Mr. Kormos?

Mr. Peter Kormos: I'm going to respond to that, because I appreciate what Mr. Rinaldi's saying, but let me tell you that most people get a hold of me—in view of how often this government uses time allocation and one-day committee hearings after the bills receive third reading, they aren't aware of it because of the haste with which this government pursues most of its legislation.

The Chair (Mr. Lorenzo Berardinetti): So is there general consensus, then, to hold this report down until the end of the meeting? Is that—

Mr. Peter Kormos: We can hold on this. We can agree because it says "may," and in my view, "may" means that any one, single caucus can veto the pursuit of clause-by-clause.

The Chair (Mr. Lorenzo Berardinetti): All right.

Mr. Peter Kormos: Is that fair?

Mr. Garfield Dunlop: I thought we were going to have two days of this and the clause-by-clause would be like we normally do, even if there were no amendments. But I felt that it was fair to all stakeholders, even if they thought of something over the weekend or they were reviewing something after what they heard today—they may want to get a hold of any one of us, and that would give them an opportunity to make an amendment, contact one of us and we could make a formal amendment to legislative counsel and prepare it for next week. That was my intention. I'm not going to change on that. You can talk until you're blue in the face, but that's the position that I'm going to take as the representative on this committee.

The Chair (Mr. Lorenzo Berardinetti): Mr. Rinaldi?

Mr. Lou Rinaldi: I'm prepared to vote on the subcommittee report. Maybe we'll stand down number 11 and decide on that at the end.

The Chair (Mr. Lorenzo Berardinetti): No, we don't need to. I think there's a solution here, and that is, we can vote on this now and then at the end of public deputations, we can have a subcommittee meeting afterwards.

Mr. Lou Rinaldi: That's fair.

The Chair (Mr. Lorenzo Berardinetti): Is that okay? Or a motion to go into clause-by-clause, and if that's defeated or someone's opposed to it—

Mr. Peter Kormos: Now, wait just a minute. I'm indicating that I believe that Mr. Dunlop has a right to block a proceeding to clause-by-clause.

The Chair (Mr. Lorenzo Berardinetti): Yes.

Mr. Peter Kormos: I'm prepared to vote on this. I agree that we can go to clause-by-clause because I don't have any amendments to propose. But if the government is going to use its majority to overcome or deny Mr. Dunlop his right to defer clause-by-clause, then we should be told now, because he may want to talk to this

issue longer or he may want to ask for a 20-minute recess on the recorded vote on the acceptance of the sub-committee report.

The Chair (Mr. Lorenzo Berardinetti): But it does say in here, though, that it may consider clause-by-clause. If we adopt this and if you at the end, Mr. Dunlop, feel that you need time, I think there would probably be some motion or some indication—

Mr. Garfield Dunlop: Mr. Chair, all I can say is that it may say “may,” but you know what? I want the option, as a member of this committee, to be able to accept clause-by-clause amendments up until one or two days into the beginning of next week. If that’s not possible and I’m voted down, I accept that. I’ll vote on the clause-by-clause now and I’ll support the amendment, but I’m not going to support going to clause-by-clause this afternoon.

The Chair (Mr. Lorenzo Berardinetti): Mr. Rinaldi?

Mr. Lou Rinaldi: Chair, if I may, I think if Mr. Dunlop feels so strongly—and I respect that—then we’ll proceed and deal with clause-by-clause next week.

The Chair (Mr. Lorenzo Berardinetti): Why don’t we vote on this, and if we need to make a motion after the deputations, then we can do that, okay? Because we do have other business at 3:20. So we have the subcommittee report in front of us. All those in favour? Opposed? That carries.

TOBACCO DAMAGES AND HEALTH CARE COSTS RECOVERY ACT, 2009

LOI DE 2009 SUR LE RECOUVREMENT DU MONTANT DES DOMMAGES ET DU COÛT DES SOINS DE SANTÉ IMPUTABLES AU TABAC

Consideration of Bill 155, An Act to permit the Province to recover damages and health care costs incurred because of tobacco related diseases and to make a complementary amendment to the Limitations Act, 2002 / Projet de loi 155, Loi autorisant la province à recouvrer le montant des dommages et du coût des soins de santé engagés en raison des maladies liées au tabac et à apporter une modification complémentaire à la Loi de 2002 sur la prescription des actions.

CANADIAN CANCER SOCIETY, ONTARIO DIVISION

The Chair (Mr. Lorenzo Berardinetti): We now move on to our first deputation. Deputations are going to be 15 minutes long. We will ask questions in any time that’s not used on up a rotating basis.

The first deputation is the Canadian Cancer Society. I want to welcome Irene Gallagher Jones and Andrew Noble from the Canadian Cancer Society. Thank you for being here today.

Ms. Irene Gallagher Jones: Mr. Chairman and members of the committee, good afternoon. Thank you for the

opportunity to present to you today supporting Bill 155, the Tobacco Damages and Health Care Costs Recovery Act. My name is Irene Gallagher Jones, senior manager, public issues, and I am with the Canadian Cancer Society, Ontario division. Presenting with me is Andrew Noble, senior coordinator, public issues.

The Canadian Cancer Society is pleased to fully support Bill 155. If passed, this bill will be another tremendous achievement in tobacco control for the government of Ontario.

The Supreme Court of Canada determined that this type of legislation is valid. In September 2005, the Supreme Court of Canada unanimously found British Columbia’s Tobacco Damages and Health Care Costs Recovery Act constitutional. Bill 155 will facilitate the ability of the government of Ontario to take legal action against the tobacco industry for the benefit of all Ontarians. Not only will a lawsuit potentially lead to the recovery of health care costs due to tobacco-related illness, but it will also further advance tobacco control efforts in Ontario.

I would like to begin by highlighting the current burden of cancer in Ontario and, more specifically, the impact that tobacco has on cancer.

As you may know, cancer is a leading health issue in Ontario, and while cancer treatments have improved and mortality rates have fallen, cancer incidence is expected to increase drastically due to Ontario’s aging and growing population. It is estimated that by 2020, cancer cases in Canada will increase by two thirds. Approximately 65,000 Ontarians will be diagnosed with cancer and 27,400 deaths from cancer will occur in 2009. More specifically, tobacco is a major cause of cancer morbidity and mortality. Smoking causes 30% of all cancers and 30% of cancer deaths. Tobacco is responsible for 85% of lung cancers and 13,000 Ontarians die every year from smoking.

As mentioned, legal action against the tobacco industry provides significant benefits to all Ontarians. These benefits include justice, truth, compensation and health. Andrew and I will review these benefits for the committee. If members would like further information, please refer to our written submission.

1420

Bill 155 creates an opportunity for justice through the courts. Through its fraud and negligence, such as advertising to youth and failing to warn consumers, the tobacco industry has caused or contributed to the deaths of tens of thousands of Ontarians. In 1995, the Supreme Court of Canada concluded that the tobacco industry had advertised to underage youth.

Although the link between smoking and lung cancer was first published in 1950, no warnings were placed on cigarettes in Canada until 1972. The industry fought successive rounds of improved federal warnings, implemented in 1989, 1994 and 2001. The tens of thousands of Ontarians, and their families, who have suffered due to tobacco-related illness deserve justice.

Mr. Andrew Noble: A lawsuit following the passage of Bill 155 will provide Ontarians with the truth about

the tobacco industry. Hidden information about the Canadian tobacco industry may be revealed through a lawsuit. Through the discovery process and court submissions, lawsuits in other jurisdictions have revealed documents about the tobacco industry's activities, including deceptive marketing strategies. As a result of the Master Settlement Agreement, MSA, in the United States, the tobacco industry was required to publish and index this type of information on a website at their expense.

Information revealed about the tobacco industry could be effectively used in youth tobacco control projects. Research has shown that to reach youth, it is useful to illustrate the lengths that the tobacco industry has gone to deceive and manipulate them. For example, Florida's Truth campaign from 1998-2000 included information about the tobacco industry's marketing activities. The campaign achieved considerable success, as the number of middle school students who tried smoking in the previous 30 days dropped from 18.5% to 11.1% in just two years. The Canadian Cancer Society believes that information about the Canadian tobacco industry's marketing practices could be used to enhance youth-oriented tobacco control initiatives here in Ontario.

Another significant benefit of legal action against the tobacco industry is compensation. The tobacco industry manufactures and markets a product that places an enormous burden on the health care system. The citizens of Ontario are entitled to compensation. Although it is premature to put a figure on the extent of a settlement or a judgment, considering that tobacco use is estimated to cost the health care system \$1.6 billion annually, it is conceivable that a successful lawsuit against the tobacco industry could represent the recovery of billions of dollars for the government of Ontario.

Ms. Irene Gallagher Jones: Significant public health benefits can be achieved through a lawsuit against the tobacco industry. If the tobacco industry's financial situation and assets such as trademarks are threatened through a lawsuit, they are likely to negotiate with government on further marketing restrictions. For example, the Master Settlement Agreement in the US banned the use of Joe Camel and other cartoons in packaging and promotion.

Although many of the gains in the Master Settlement Agreement have already been established in Ontario and Canada through laws like the Smoke-Free Ontario Act and the federal Tobacco Act, there are numerous additional restrictions on the industry's behaviour which could be enacted as part of an Ontario settlement.

In conclusion, the Canadian Cancer Society views the tobacco industry as a unique contributor to cancer. As an industry, their role has been to profit from a product that, when used according to the manufacturer's instructions, is responsible for 85% of lung cancers. Bill 155 is the first step in holding the tobacco industry accountable for its actions. The passage of Bill 155 and subsequent legal action against the industry will help contribute to the achievement of the Canadian Cancer Society's mission of creating a world where no Canadian fears cancer.

Once again, we would like to thank the committee members for the opportunity to appear today.

The Chair (Mr. Lorenzo Berardinetti): Thank you. There are about seven minutes; about two to three minutes per party. We'll start with the Liberal Party.

Mr. David Zimmer: Thank you very much for your thoughtful presentation.

The Chair (Mr. Lorenzo Berardinetti): We'll move to Mr. Dunlop.

Mr. Garfield Dunlop: It's a very interesting process to go through with this. I know it has happened in a few of the states, and some of the other provinces have made moves in the direction to recoup some health care costs from the tobacco companies etc. I guess there are two questions I'd like to ask. One is: In Canada, I'm not aware of the successes of any of the provincial governments with this type of legislation. That's the one question, because I don't want to take a lot of time speaking. I'm curious also on other causes of cancer, whether it may be some kind of drinking, or toxins in the air: Do you feel that the government of Ontario should follow the same type of process—if they're successful at some point in convicting the tobacco companies, do you think there's a possibility or should they go after other businesses, other corporations that might cause some other impact on someone's health?

Ms. Irene Gallagher Jones: To your first question, yes, other provinces have begun the process of suing the tobacco industry. British Columbia and New Brunswick both have filed lawsuits. There has been a lot of work done in BC to set the stage for Ontario in terms of the success of those lawsuits because they haven't been fully completed. There isn't much more to add unless Andrew has any more to add.

Mr. Andrew Noble: Just to go back to the point that Irene made in the presentation, this type of legislation has been determined to be valid by the Supreme Court of Canada. So in that sense, there has been work done on this.

Ms. Irene Gallagher Jones: In terms of your second question, there are many risk factors and contributors to cancer. Tobacco is one of the most significant and is why the Canadian Cancer Society has been advocating for tobacco control measures for many years. As I mentioned, taking this sort of step to move forward with legal action against the tobacco industry is important because the tobacco industry is a unique contributor to cancer. They're the only products on the market that, when used as directed, cause 85% of lung cancers. So I agree with you that there are other areas to look at, but this particular approach is a measure that is designed to provide Ontarians with justice—those who have suffered tobacco-related illness and the family members who have suffered as well.

Mr. Garfield Dunlop: A quick question: If BC has moved in a positive direction in their legislation, should we be waiting on the outcome of their court hearings before we move forward?

Ms. Irene Gallagher Jones: As mentioned, there has been a lot of heavy lifting done in BC that has really

paved the way for Ontario to move forward with swift action to a lawsuit in Ontario.

Mr. Andrew Noble: The sooner the Ontario government gets moving on this, the sooner we will have results. There's no sense waiting; it's time to start.

The Chair (Mr. Lorenzo Berardinetti): Mr. Kormos.

Mr. Peter Kormos: Thank you, folks. Ms. Nader is standing at the door compelling my attendance in her office. A certain Ruby Dhalla and some nannies and a Minister of Labour and the media interest are cramping your style here. So I'm going to be absent for a bit.

New Democrats are supporting the legislation; it's going to pass before June 4. But let's understand: This is not the romanticized David-and-Goliath civil litigation that we witnessed in the States where the victim's family gets to sue the tobacco company and the lawyers rip the butt off the tobacco company and award multi-million-dollar damages. That's justice. This is largely symbolic. It's going to involve lawyers making millions of dollars. Success will depend upon the courts. Ideally, midway through, the tobacco companies would sit down with the governments and settle it. But the governments are going to be fearful of looking weak and not pushing it to the wall, and the tobacco companies are not going to want to give any quarter. That's part of the problem, so here we are.

Ms. Irene Gallagher Jones: As we've mentioned, Ontarians who have suffered—and the Canadian Cancer Society is the voice for cancer. We are here to say that a lawsuit will provide justice and discussion about it in the media, in the public, through the courts. Even, as you say, if it's not an individual, it will provide that feeling of justice being served in Ontario.

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Mr. Peter Kormos: I'd sooner see people go to jail, quite frankly, but that's not going to happen either, is it? Thank you, folks.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation.

NON-SMOKERS' RIGHTS ASSOCIATION

The Chair (Mr. Lorenzo Berardinetti): We will move on to the next deputation, which is the Non-Smokers' Rights Association, Garfield Mahood.

Again, the same general rule: 15 minutes; you can use all the time as you see fit. Any time that you don't use up, we'll put towards questions. Good afternoon, and welcome.

Mr. Garfield Mahood: Thanks very much, Mr. Chair, members of the committee. Thank you for inviting me to address the committee on the Tobacco Damages and Health Care Costs Recovery Act.

I'm here wearing two hats. As executive director of the Non-Smokers' Rights Association, we've had an interest in litigation and accountability for the tobacco industry for a number of years. I run a national non-profit health agency with offices in Ottawa, Montreal and

Toronto, and this is certainly a primary interest of our organization. I'm also here in a way representing the Campaign for Justice on Tobacco Fraud, and in the materials handed out to you, you'll see a letter that was addressed to Premier McGuinty about a year ago that addresses this issue. I'll come back to that particular letter. Anything I say on behalf of the people who signed that letter is contained in the letter. They're not responsible for the additional comments that I will put before the committee.

My compliments to the government. It took a while to persuade the government to get involved in the litigation, but the government has, and this government has shown real leadership on tobacco issues. I want to compliment the Attorney General for taking a different path than his predecessor and finally coming forward with this legislation. Frankly, we hope that the passage of this legislation will go a long way to setting up a national litigation effort, which is really what is needed.

I want to tell the committee, because it is not well known, a little bit about what led up to the American states, Canadian provinces and jurisdictions throughout the world suing the tobacco industry over fraud, negligence, conspiracy and a number of other unsavoury activities. Let's be blunt. Let's take it right back to the beginning. It started in a room in 1953 at the Plaza Hotel in New York. When CBC national television news did its outstanding documentary on the tobacco industry, the opening scene was a photo of this hotel, where one of the most horrendous meetings in the history of business or public health ever took place. The heads of major tobacco companies met with John Hill of Hill and Knowlton, and they mapped out a campaign in 1953 that would confuse the public, that would attack the science and indeed would even attack the scientists.

That campaign to create a belief that there was controversy over the risks of tobacco, that campaign to discredit the scientists who were putting forward information in the interests of public health, led ultimately to millions of deaths and decades of deception by the tobacco industry. How bad was that? Frankly, as a result of the activities of the industry, the World Health Organization predicted some time ago that the tobacco industry would kill 500 million people on this planet presently alive. Most of the marketing of the industry was constructed on that fraud. Phil Hiltz of the New York Times, who got some of the original documents on this, said, "There is no case like it in the annals of business or health."

Someone a moment or two ago asked the question, "Shouldn't we look at other industries?" My response is that with five million people dying every year, 37,000 of them in Canada, if somebody has some idea about another industry that is engaged in this kind of activity, this kind of wrongful behaviour, if somebody knows of an industry that is behaving like that, be my guest and go after them with all gloves off, with everything available to governments. Go after them passionately and make sure they are the recipients of civil sanctions and the

criminal justice system. There is nothing like the tobacco industry in the history of business.

The disinformation campaign involved lying about the risks of addiction, lying about the risks of second-hand smoke, lying about targeting to kids, lying about virtually every aspect of their business, including “light” and “mild.” This is unsavoury business.

Let me tell you what the reaction was when it was discovered what this industry had been up to. Justice is a major component of the purpose of this bill. The disinformation campaign was so bad that when the Minnesota government had the courage to take these people into court and the industry was faced with a choice, after it had gone through the jury process and the jury was about to go out and deliberate, the industry, rather than risk the wrath of the jury, settled for US\$6.3 billion. That, in Canadian dollars at the time, was \$10 billion. When you adjust for the differences in population between Minnesota and Ontario, the Minnesota settlement in Ontario would have been \$1 billion a year for 25 years. The same behaviour has gone on on both sides of the border.

Forty-six states sued—as Mr. Perley will tell you, I’m sure, later and go into detail—46 states came in, making a total of 50 that ultimately held the industry to account. The settlement was close to C\$400 billion. In the lawsuit over this same fraud, Judge Gladys Kessler, in the United States Attorney General v. Philip Morris et al, including the parents of some of the Canadian companies, wrote—this quote is in the booklet on page 18 that’s in the package handed out to you. This quote by this federal court judge is so delicious, I have to read it:

“Put more colloquially,” she says, “and less legalistically, over the course of more than 50 years, Defendants lied, misrepresented, and deceived the American public, including smokers and the young people they avidly sought as ‘replacement smokers,’ about the devastating health effects of smoking and environmental tobacco smoke, they suppressed research, they destroyed documents, they manipulated the use of nicotine so as to increase and perpetuate addiction, they distorted the truth about low tar and light cigarettes so as to discourage smokers from quitting, and they abused the legal system in order to achieve their goal—to make money with little, if any, regard for individual illness and suffering, soaring health costs, or the integrity of the legal system....

“In this case, the evidence of Defendants’ fraud is so overwhelming that it easily meets the clear and convincing standard of proof.”

So you see, when we come here today and praise the government for finally deciding to hold the industry to account, one of the things we did in order to try to engage the Ontario government was to send the letter that was sent to Premier McGuinty in 2008, almost a year ago to this time. In that letter—by the way, I commend this letter to you. It was signed by Dr. Mary Jane Ashley, professor emeritus at the University of Toronto, who was Elizabeth Witmer’s—she was the head of the expert panel that made recommendations on the revision of the Ontario tobacco strategy.

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Roy Cameron, the executive director of the Canadian Cancer Society and the National Cancer Institute of Canada, signed that letter. Paul Garfinkel, the CEO of the Centre for Addiction and Mental Health, signed that letter. More than 20 medical officers of health in Ontario signed that letter that you have in your hands. The former medical officer of health for the province of Ontario signed that letter: Richard Schabas. Fraser Mustard, probably one of the most pre-eminent health professionals in the country, the founding president of the Canadian Institute for Advanced Research, signed that letter, as did the dean of law at Osgoode Hall Law School. What did they say? In effect, the letter says it would be unthinkable for any government to allow an industry that is responsible for the deaths of approximately 400,000 Ontarians to not hold an industry to account that is responsible for that kind of behaviour. It is unthinkable that civil remedies and criminal prosecution would escape these people.

The second thing they made a point of is cost recovery. In terms of stewardship, people have mentioned here the cost of lawyers. So what if it costs a few million dollars for lawyers? We are talking about billions of dollars. The Conservative government estimated that the claim from Ontario would be in excess of \$40 billion. What person investing his money wouldn’t invest a few million in order to recover billions? The stewardship wouldn’t be there if you didn’t do that, and too bad if some lawyers make some money in the process.

Deterrents: What message do you send about deterrents if you don’t hold this industry accountable? There is no other way. Individuals can’t do that in Canada. The Supreme Court limitations don’t allow the lawyers to get involved and go after the industry. So it’s the provinces that have to do it. Cost recovery is absolutely critical. Deterrents.

Health benefits were mentioned by the Canadian Cancer Society. The disclosure of documents in the American litigation was probably the biggest health gain the Americans had in the 1990s: 30 million tobacco industry documents pushed out into the public domain. This is incredibly important.

Public education: You can spend all the money you want on public education. I was chair of the media campaign for the federal Minister of Health. I know a little bit about these media campaigns. I was an adviser to the Massachusetts campaign for a period of time. Let me tell you, those media campaigns struggle to have an impact. But you get this lawsuit going and the public information that will spill from that will be the most important mass-media campaign that we’ve seen in this country in a long time.

The final thing, because I’m nearly out of time: Sharing the costs of litigation is important. This has to be a national litigation effort. It’s not Ontario beating BC; it’s a matter of the provinces getting together and doing the job, the heavy lifting, together and Ontario should be involved.

Finally, I have to say something, because we have the tobacco folks—by the way, in your booklet I refer you to the first five or six pages. The title of this book is *What do the Smoke Folks have in Common with Organized Crime: or Taking the Normal out of an Industry that Kills*. Why did we make the reference to organized crime? Because the US litigation was based on the Racketeer Influenced and Corrupt Organizations Act, which was set up to deal with the Mafia. The legal experts advised the US states and the federal US Attorney General that the same construct was going on with respect to how the tobacco industry managed this issue.

The tobacco guys will come in here today and they will say one of the things that we've heard them say before: that the government is senior partners with the tobacco industry, because they're making money off taxes. So they're senior partners. Let me tell you, I know of no government in this country that committed fraud that is responsible for 37,000 deaths a year, that has killed more than one million Canadians in the last five decades because of this fraud.

So I commend this legislation to you. I praise the government for finally engaging. We encourage the opposition parties to come together and make sure that they go after this industry with the determination that this industry merits.

Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That pretty well uses up your time, unless anyone had a quick point to make, because it was about 15 minutes long.

Thank you, Mr. Mahood, for your presentation.

Mr. Garfield Mahood: Thank you for listening.

ONTARIO CAMPAIGN FOR ACTION ON TOBACCO

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next deputation, the Ontario Campaign for Action on Tobacco, Michael Perley.

Mr. Michael Perley: Thank you, Mr. Chairman and members of the committee. Thank you very much for the opportunity to also support Bill 155.

The founding members of our campaign—the Canadian Cancer Society, Heart and Stroke Foundation, and Non-Smokers' Rights Association, which are here with you today; as well as the Lung Association and the Ontario Medical Association—fully support the government's intention to bring the tobacco industry to account for its decades-long campaign, which Gar has so eloquently described, to resist serious efforts to control the spread of the disease epidemic caused by its products.

Many of these industry strategies and tactics are described, as Gar said and as others have said, in its own documents, now on the public record in the US and elsewhere, some of which refer to Canada. We look forward to much more documentation of this type becoming available here as a result of the government's action, for

the reasons Gar said: a public education campaign, the likes of which no government has mounted in the history of tobacco control.

I'd like to give you a little bit of a sense, more directly, of the industry described in these documents, and I want to briefly quote from two of them.

The first is from R.J. Reynolds and states: "Studies of clinical data tend to confirm the relationship between heavy and prolonged tobacco smoking and incidence of cancer of the lung."

This conclusion is no surprise, you may say. Some have suggested that we're all very familiar with such facts today. The industry acknowledges that the use of its products carries risks, and it's heavily taxed, so why litigate?

The answer is partly, at least, that this statement dates from 1953. You'll recall Gar's reference to the deliberate campaign that was launched in 1953 to obfuscate this and other effects of tobacco industry product use. This was shortly before the industry consciously launched an international campaign to deny, hide and otherwise misrepresent these and many related health impact findings. I won't go over again the hundreds of thousands of deaths—if not millions—that have been caused worldwide by this.

Our society, especially our health care system, began paying the costs of this industry behaviour decades ago, long before there was any significant taxation of industry products and long before there was any widespread consensus on the dangers represented by the use of industry products, either by first-hand smoking or through exposure to second-hand smoke, which has been, of course, a focus of the present government's very significant and successful smoke-free Ontario strategy.

For the second quotation I'd like to mention, I'll ask you to recall—and I think you've probably all seen it—the image of US tobacco executives testifying to the US Congress in April 1994, with their hands raised, that nicotine was not addictive. They each repeated this, following questions from subcommittee chair Henry Waxman.

Contrast this with the following statement from US tobacco giant Brown and Williamson, today owned by British American Tobacco, which also owns Canada's Imperial Tobacco: "Nicotine is addictive. We are, then, in the business of selling nicotine, an addictive drug." This statement dates from 1963 and helps us understand what the industry knew, and when it knew it, about nicotine addiction in truth, which has kept hundreds of thousands of Ontario smokers chained to what proved to be, for them, a fatal addiction. It is another excellent illustration of why Ontario needs the litigation enabled by Bill 155.

When we think of lawsuits based on legislation of this type, we inevitably focus, and quite understandably, on the potential financial recovery from the industry. To give you a little additional sense of the order of magnitude potentially involved here, I want to mention the four US states, which settled individually with the indus-

try in advance of the US Master Settlement Agreement of 1999. Gar has already mentioned Minnesota. Other individual states settling included Mississippi, Florida and Texas. The total population of those four states is just over 40 million people, which is maybe a little less than 25%—more like 20%—larger than Ontario. They settled out of court for a total of US\$36.6 billion.

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As you've heard, the entire Master Settlement Agreement reached with the industry in 1999 totalled \$246 billion, payable over approximately 25 years. It's important to again emphasize that this kind of recovery, if successful in Ontario, has nothing to do with recent or current taxation rates, which neither redress past wrongs nor come close to covering current provincial annual health care expenditures on tobacco-induced disease. I'm not speaking here at all of the broader impacts of forgone income and lost productivity on people suffering from tobacco-induced illness and on employers employing them, which usually amounts to two to three times the health care cost.

What I'd also like to emphasize, though, and others have mentioned this, is that the MSA led to a settlement which included many of what we call non-monetary tobacco control provisions, which were enacted to rein in the industry's destructive behaviour and avoid incurring future costs. The non-monetary provisions of the Master Settlement Agreement are an important illustration of what's possible through the negotiation process when a similar settlement is reached with the Canadian tobacco industry. Bill 155 need not contain such provisions itself. Rather, it paves the way for a settlement which can contain these provisions if the government insists that they be part of such a settlement.

Let me give you a few additional illustrations of the types of controls placed on the industry in the US as part of the MSA. Here are some of those provisions: a ban on certain types of outdoor advertising, including billboards—we've done that in Canada; a ban on the use of cartoons, such as Joe Camel—that was mentioned earlier; and a ban on tobacco companies taking any action directly or indirectly to target youth in the advertising, promotion or marketing of tobacco products. I think it's certainly arguable that that job is not complete here in Canada.

The MSA also prohibited the companies from taking any action the primary purpose of which was to initiate, maintain or increase youth smoking. Again, that job is not, I don't think, complete here in Canada.

The MSA prohibited tobacco companies from giving anything of value to any person or entity in exchange for placement of a product and/or endorsement of a product, such as placing certain brands of tobacco products in movies or on television shows, formerly a frequent industry practice, and there's some debate about whether it goes on today.

Participating manufacturers were prohibited from marketing, distributing or licensing apparel or merchan-

dise bearing a tobacco product name, including catalogues and direct mail.

The settlement prohibited or restricted the companies from facilitating youth access to their products by such tactics as sale of packages with less than 20 cigarettes—we've done that here in Ontario—or distribution of gifts and free samples.

A large variety of tobacco industry documents, as you've heard, were made public and still remain available to us.

The industry—and this is very interesting—was prevented from lobbying to oppose state or local restrictions on issues such as youth access, retail sale to youth or limitations on non-tobacco products which are designed to look like tobacco products. There's a lot that we could be doing in a somewhat different vein but in a similar direction, generally, on that issue.

The American Legacy Foundation was created to support the study of and programs for the reduction of youth use of tobacco products and to support the study of and programs for the prevention of diseases associated with tobacco use. In light of the recent very significant cuts to the financing of the Ontario tobacco strategy, that could be a very interesting possibility in years to come.

Finally, a growers' trust fund was negotiated with tobacco-growing states under which the latter were eligible to receive payments in exchange for exiting the industry. That job is well under way in Canada but it's not complete in Ontario.

In Canada, the federal government and various provinces have enacted many of the above restrictions, as I mentioned. Nevertheless, there are numerous additional restrictions on the industry's behaviour which could be enacted as part of an Ontario or Canadian settlement. The partners of the Ontario Campaign for Action on Tobacco look forward to providing their expertise and advice on these restrictions to government at an appropriate time.

Finally, again, congratulations to the government for introducing this bill, and I want to thank you for this opportunity to testify in support of the bill.

The Chair (Mr. Lorenzo Berardinetti): Thank you. There are about five minutes if anyone has any questions. We'll start with the Conservatives. Mr. Dunlop?

Mr. Garfield Dunlop: Thank you very much, Mr. Perley, for being here today and for your comments.

I'm trying to get my head around the American legal system and the direction they went, and our Canadian system with our provincial governments all taking action at one time or another, or in the future, against tobacco companies.

I'll ask two questions here because we don't have a lot of time.

One is, and maybe the parliamentary assistant can answer this from a legal perspective: Why is this not done as a national lawsuit, as opposed to each province taking a challenge?

Second of all, I know we've done a lot in Ontario, and the Smoke-Free Ontario Act has done a lot, but we still have a long way to go. I've talked to small business

people in my community who have convenience stores. They've got these huge power walls. You can't even see the word "cigarette" anywhere. In my riding of Simcoe North, most of the people just go up to the First Nations and Wahta—there's a number of them north of us—and they can buy whatever they want. There are open smoke shops everywhere, and that's where people buy their cigarettes now.

I'm curious about what we should do in those particular cases, to combat smoking. Obviously these aren't brands that you see on the shelf behind the power walls. These are brands that are contraband.

So I'd like to hear your comments on that, plus this national lawsuit case as well.

Mr. Michael Perley: On the national versus provincial question, the provinces administer and run the health care system and incur the expenditures that we're talking about recovering. So I think that's the short answer. There's more to it, but that's it in a nutshell.

On the contraband issue, we very strongly support more action on contraband. We have not seen enough action on contraband, on the one hand. On the other hand, we've always done multiple things at the same time on tobacco control. Focusing on contraband, which is a matter for the Ministries of Revenue and Finance, and hopefully the Ministry of Health and Long-Term Care to a lesser extent, on the one hand, and litigating in the manner we're talking about by the Attorney General on the other hand, to me shouldn't be mutually exclusive.

The justice, accountability, truth, cost recovery and stewardship issues have all been outlined by Mr. Mahood. I think there's a very, very strong case there. They've been supported by all 50 states—success in the US on the same principles, and even, in fact, more drastic principles, as Mr. Mahood outlined. So I think there is a case to answer that cries out for action there. At the same time, there's also not enough action on contraband.

On contraband, we also have a split jurisdiction between the feds and the provinces, and we have some action that's gone forward at the federal level—the RCMP's strategy; there's an interdepartmental committee. We haven't seen a similar strategy of that type from the province. We need that strategy, but because that hasn't yet been completed shouldn't be a reason not to litigate and just simply focus on contraband.

I know that tobacco companies, particularly Imperial, have been making much of the contraband issue lately. If I was losing the kind of money they're losing from contraband, I'd be complaining too. It's eating into their profit picture. That, to me, is of no consequence, and I'm sure it's of no consequence to any of my colleagues. What is of consequence is that it is undermining efforts to get people to stop smoking through tax increases, which are the single most effective intervention against initiation and use of product by many people. We can't use tax increases in Ontario and Quebec as readily as we could, because we have a contraband problem. We need action there, but that should not preclude action on litigation.

The Chair (Mr. Lorenzo Berardinetti): Any other questions or comments? Mr. Zimmer?

Mr. David Zimmer: Thank you very much for your thoughtful advocacy.

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IMPERIAL TOBACCO CANADA

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next deputation: Imperial Tobacco Canada, Donald McCarty.

Again, it's basically 15 minutes. Any time that you don't use, we'll set aside for questions.

Mr. Donald McCarty: Thank you, Mr. Chairman. I've taken your lead on the dress code, with your permission.

We're just setting up a few slides that we'd like to show you somewhere in the middle of the presentation, so I'll just start, if that's okay with you, while we do that.

Thank you for the opportunity to come and speak to you today. My name is Don McCarty. I'm vice-president of law at Imperial Tobacco Canada, a position I've had since 2000. I was not present at the meeting in 1953; I was six months old at the time. But I do know that with respect to that supposed secret meeting that did occur, representatives of the United States government were invited, in writing, to come. They declined, but after the meeting was over they did receive minutes of that meeting. So perhaps it's not as secret as it's made out to be.

We have prepared a formal submission. It's been distributed. I hope you take the time to read it. We took some time in preparing it.

I can no longer come before committees such as this and say that we are Canada's leading tobacco manufacturer. The leading tobacco manufacturer in this province now is the illegal tobacco manufacturing segment. Many members of the Legislature chose to speak about this issue during the debates on this bill; rightly so. The most recent information on the illegal tobacco market in Ontario is that 50% of tobacco purchased in this province is contraband. This is a staggering number. Ontario has a higher rate of illegal cigarette trade than Columbia, Peru, Bolivia, Ecuador, Zimbabwe or Nigeria, to name but a few. The indication from media accounts of RCMP seizures is that it's going to get worse. Last week, they announced a seizure of 13 million cigarettes in Cornwall, one of the largest seizures they've ever done. If it had gone through to the market, this would have deprived the Ontario treasury of over \$1.6 million in tobacco revenues. It's not unreasonable to assume, and the police would agree, that a similar amount of cargo evades police regularly. This is nothing short of scandalous in a developed province in a developed country and in a province and in a country that prides itself on being at the forefront of tobacco control initiatives and holds itself out as such in tobacco control forums such as the WHO's framework on tobacco control.

We have prepared a few slides to illustrate what is happening to illicit trade, to tobacco revenues and, more

alarmingly, smoking rates in this province. You'll notice that none of the slides refer to our lost revenues.

The first slides tell a good story. Ontario tobacco taxes are rising in the years 2001 to 2005. The theory is that higher taxes reduce smoking prevalence. You will see from the purple line that the Canada tobacco use monitoring survey shows that smoking prevalence is indeed declining in those years. Tobacco tax revenue for the government of Ontario is also increasing in those years—more good news. Then we move to the post-2005 years. Tax levels are high and remain so. Illicit trade makes its appearance. In 2006, 2007 and 2008 the rates become so high that in 2008, illicit trade is almost 50% of the tobacco purchased in this province.

What happens with smoking prevalence? Well, the Canada tobacco use monitoring survey now indicates that smoking prevalence appears to be going in the wrong direction, and so is government tobacco tax revenue. The Auditor General of Ontario recently estimated the losses at more than \$500 million. So what about the bill itself—sorry, I have one more slide I meant to show you.

Recently, the government of Ontario, as you know, harmonized the PST and the GST. Ordinarily what it had done was it included the provincial GST, if you will, in the provincial tobacco taxed. Now, in the harmonized taxes coming into effect, they are no longer doing that. This leads to an effective 13% increase in the rates of tobacco taxation in this province for the coming years. Where will illicit trade go, where will your revenues go, where will smoking prevalence go, are the questions that this graph and I ask.

Bill 155, in our view, has nothing to do with tobacco control or with health; it has everything to do with money. We need to debunk some of the myths that surround these types of cases. First of all, if Ontario takes a lawsuit and it loses, well, it loses. In the United States, more than 200 cases of such kind have actually been taken to trial. All of them have resulted in verdicts for the tobacco industry for one reason or another.

The MSA is a different story. It was a settlement. The MSA could occur because in the United States, tobacco prices were so low that the companies had room over the next 25 years of the settlement to dramatically increase their prices and fund the settlement. This is what the governments knew and accepted. They also said it allowed them to bring all kinds of regulations against the tobacco industry in the United States. The fact of the matter is that even the new regulations that the MSA put into place in the United States are laughable compared to what we have in Canada. We don't need that type of settlement, as history has shown here, to put into force the type of regulations that we have now.

If Ontario loses, it loses. If Ontario wins a case like this, it will lose even more. The industry does not have the money to pay the \$40 billion that was talked about earlier. The combined profitability, after tax, of the Canadian legal tobacco industry is about half a billion dollars. Where is that money going to come from? The answer to that is the industry will have to go bankrupt.

Your revenues will go south in a big way, and what will happen to smoking prevalence when the illicit tobacco manufacturers take over? We estimate that their manufacturing capacity right now and their control of the supply chain is such that they could take over the entire market in this province within a matter of days.

If Ontario goes ahead and adopts this bill—and, judging by some of the comments I've heard, I tend to feel that it will—what interest do you have in moving ahead with a lawsuit? The other provinces have already done so. There's no advantage here in getting to the finish line before anyone else. If BC gets there first and if BC wins, well, bankruptcy will result. Just because you were first to get to the finish line doesn't mean you're entitled to any more. With the amounts that Ontario thinks it can get at \$40 billion—sometimes BC puts this number at \$10 billion, but it goes north and south from that. You multiply that by 10 because it's 10% of the population. The amounts of money you're talking about here simply don't exist. Let's get real.

If Ontario does decide to pass the legislation, it doesn't need to move ahead with a lawsuit. It would be a waste of time; it would be a waste of money. The simple solution is to ensure that in the statute itself a clause is inserted allowing the bill to come into force upon proclamation so the government could choose a time and place when the act will come into force.

This bill is a demonstration that the tobacco control agenda has run a little bit out of steam. The problem is that it won't do anything to reduce consumption or to stop people from buying illegal cigarettes or, even more importantly, to stop those who are selling cigarettes to youth at pocket-money prices. The government needs to be doing more to stop this.

The Supreme Court has, it is true, upheld the validity of a similar act in BC. In doing so, it had to declare that there is no such thing in Canada as a right to a civil fair trial. The province has the power to do away with your right to a civil trial that is fair. That is what the Supreme Court has said. That is what our Constitution said. Just because it's legal doesn't mean it's right.

The question has been put: What about other industries? They easily could turn this example to other industries. Two of the more obvious cases are gambling and alcohol. Those industries, in most provinces in Canada, are already well in the hands of government control now as it is. So where is the next industry going to come from? Fast food, perhaps; there are many candidates.

Our own view is that the way to work now on tobacco control is to work with the tobacco companies, not against us. We're willing to participate; we're willing to help. We've put forward solutions for the illicit trade problem. One of the reasons why people don't want to address this issue is that it appears to be too big to handle. We've put forward a number of steps that could be stepping stones to a solution.

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One of them is: For God's sake, will you put someone in charge? There is no one in charge of this file in the

government of Ontario. There's no one in charge of this file in the government of Canada. You need to appoint a senior minister in charge who can rally all of the government agencies, government forces, industry, anyone you need, to control this problem. Such a person does not exist. That's the first thing that needs to be done. That person needs to be given the power and the commitment to do the job.

Then you need to enforce the laws. There are dozens of laws being violated on a daily basis by the illegal tobacco manufacturers. You just have to drive through any reserve to see them. Promotion is flagrant. Discounting is everywhere. There are no health warnings anywhere. You need to enforce the laws, and you need to give law enforcement the resources and the powers to deal with the problem.

Control the supply chain: We can help here. You need to control the entry and the access to raw materials needed to make cigarettes. You need to control the access to acetate. You need to control the access to cigarette paper and tobacco. Tobacco is very easy to come by in this province, of course. Canada's leading producer of tobacco leaf is Ontario.

Finally, First Nations have to get involved in the solution. They need to be consulted with and implicated in a solution that would involve them—perhaps being able to implement their own First Nations tobacco tax and take away the incentive for this illegal tobacco. You need to allow them to regulate the trade and to impose tobacco control on their territory and consult with them in the solution. Perhaps then we will see some progress on this issue.

In short, this bill will do nothing to control tobacco in this province. It will do everything, if the initiative and the energies of government are wasted, to increase the rate of illicit trade in this province, and I've already shown you what that will lead to.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have about five minutes for questions. We'll start with the government side. Mr. Moridi.

Mr. Reza Moridi: Mr. McCarty, do you think that tobacco causes cancer?

Mr. Donald McCarty: Yes, I do. It causes many serious and fatal diseases. Smokers have been aware of those risks for a long time.

Mr. Reza Moridi: People die of cancer as a result of smoking cigarettes, don't they?

Mr. Donald McCarty: I just said that. Yes, I believe that. Smokers have known that for a long time. For many years, the federal government took the initiative in informing smokers of that health risk, and the tobacco industry did everything that the federal government directed or suggested that we do in order to assist them with that.

The Chair (Mr. Lorenzo Berardinetti): Any other questions? No? We'll go to the Conservatives. Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much for being here today. I congratulate you on your courage to

deal with this legislation, because it's obviously directed at companies like yours.

You made some points that I think are important, and I was the one who brought them up earlier.

Obviously, this is directed at the tobacco companies. A number of members of my own family have passed away due to cancer, and they blame it on cigarette smoking. However, I worry about things like child obesity. As the next step, are we going to tackle people who make chocolate bars, or fast food companies and that sort of thing? In what direction are we really going here?

It's interesting that you would bring up First Nations today. As we speak, right now, the Minister of Community Safety and Correctional Services is making a First Nations policing announcement in my riding, in the Chippewas of Rama First Nation, and it's all about adding more money for policing. But in that very First Nation, there are a number of tobacco smokehouses. You can go to any one of them. And they're not only in Rama. There are a number of them throughout Muskoka and throughout Ontario. In fact, if you go to Wahta First Nation, you can actually stop and have a choice of your cigarette. You can stop there and they will give you a number of cigarettes to try, to see which one you like best. And no one's doing anything. Today the Minister of Community Safety is making an announcement on policing, but he won't stop at the smoke shop and see what he's going to do about smoking. We've heard a couple of times today that that is something that absolutely has to be dealt with if we're going to go down this road of having a completely smoke-free Ontario.

I guess it's more of a comment on my behalf as opposed to a question, but I know that if all the provinces get legal action and they get a court case or a judge who will say, "You're guilty," we're not going to get the money back. We're not going to get \$40 billion for Ontario, \$30 billion for Quebec and maybe \$150 billion across Canada. Do you know what? We're going to get a fraction because you're all going to be broke. There won't be tobacco companies.

It's more of a comment than anything else, but the reality is that more has to be done right here in Ontario and across the country to stop people from learning how to smoke.

Mr. Donald McCarty: If I can respond to a comment with a comment, I agree with what you say. At some of the places in Montreal, while the Habs were still in the playoffs, you could actually put in to win a pair of Habs tickets when you bought 200 cigarettes for five bucks. There's a lot of that going on.

Ontario has the distinction of having the highest rate of anywhere in the country. It's around 50%. We estimate it to be at 40% in Quebec, and the other provinces have considerably lower rates, but in some sections of the country it's on the increase as well.

Mr. Garfield Dunlop: Thank you very much. It was more of a comment than—

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have another minute or so. Mr. Zimmer, you have a question?

Mr. David Zimmer: Thank you for your very detailed presentation.

Mr. Donald McCarty: You're welcome, sir.

The Chair (Mr. Lorenzo Berardinetti): Thank you.

HEART AND STROKE FOUNDATION OF ONTARIO

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next presentation, which is the Heart and Stroke Foundation. We'll just give them a moment to get the slide projector out of the way here so that nobody gets—

Interjection.

The Chair (Mr. Lorenzo Berardinetti): Okay, so we can begin. Welcome, Laura Syron, from the Heart and Stroke Foundation of Ontario. You know it's 15 minutes. Any time not used by your presentation will allow for questions. Welcome to the committee.

Ms. Laura Syron: Thank you very much. My name is Laura Syron. I'm the vice-president of research, advocacy and health promotion at the Heart and Stroke Foundation of Ontario. I want to begin by expressing my appreciation, and that of the foundation, for the opportunity today to provide input on this very important piece of legislation.

Before I offer comments on Bill 155, I would like to take a minute to introduce the foundation, for those committee members who aren't familiar with us. The Heart and Stroke Foundation of Ontario is a volunteer-based health charity. We take the lead in eliminating and reducing the impact of heart disease and stroke through our advocacy work, advancement in application of research and the promotion of healthy living.

As part of the smoke-free Ontario strategy, Heart and Stroke conducts the tobacco-control mass-media campaigns on behalf of the Ontario government, aimed at reducing exposure to second-hand smoke and the reduction of current smoking rates.

As a result, we are eager to see any step that will reduce current and future use of tobacco products. There are approximately 13,000 tobacco-related deaths each year in Ontario. That's 36 deaths a day. Smoking is also the primary cause of heart disease, stroke and diseases of the vascular system. If you're a smoker, you are two to three times more likely to have a heart attack than a non-smoker and you are three times more likely to have a stroke.

The foundation has been pleased to come before committees of the House several times in recent years to support government action on tobacco issues. We have endorsed initiatives such as the smoke-free workplace legislation, the ban on tobacco power walls and the protection of children from smoking in cars—initiatives that demonstrate true public health leadership by this government. Today, the foundation is here to lend its support to Bill 155, legislation that promises to further reduce tobacco use and its deadly consequences.

We understand that many public leaders and organizations support this legislation as a matter of justice. They hope to hold the tobacco companies to account.

If I could just interrupt myself for one minute here, just to comment on my honourable colleague Mr. McCarty, who just left—

Mr. Jeff Leal: He's right behind you.

Ms. Laura Syron: —or who has just finished his remarks, it is interesting to me that the industry is talking to you about diverting from what to us is the real issue here, which is the public health issue, and also failed to mention that the Supreme Court of Canada has allowed the provinces to go after the assets of the parent companies as well as the Canadian companies. I think that's an important fact for people to know.

1520

It is well documented that the industry has been involved in misleading marketing practices, smuggling, fraud and deceptions regarding tobacco risks. However, our focus, and why I'm here to talk to you today as a health charity, is the potential beneficial impact on the health of the people of this province and our future generations. We have seen that impact in the United States, where the successful legal action resulted in the master agreement covering all states; a number of speakers have already spoken to that today. That agreement has dramatically reduced the ability of tobacco companies to promote their products to non-smokers and, for us, of particular importance, young people. Joe Camel is gone—you've heard that a lot today—along with other industry attempts to create another generation plagued by addiction and unnecessary illness.

We at the Heart and Stroke are really glad to see the end of product placements of tobacco in movies and TV shows, through endorsements to merchandising, and the end of brand-name sponsorships. We applaud the goodbye to the misleading fog generated by puppet research groups created by the tobacco industry. These groups existed only to muddy the waters of public information and distract from the truth about the harmful effects of tobacco. And goodbye to the tobacco industry's lobbying efforts against what we see as common-sense provisions restricting youth access, banning ads on school properties or including cigars as tobacco products.

The master agreement in the United States, though, also resulted in the disclosure of 30 million pages of industry documents, and for us this was equally important. It shone light into dark corners and on some of the biggest secrets. That information sparked enormous public discussion and raised awareness of how badly the public had been misled about tobacco risks. All of that has come about because of successful litigation. We believe that these victories were just as significant as the massive amounts of money involved, and for us maybe even more significant. Yes, the \$246 billion in fines hurt the industry, but the other provisions of the agreement helped to protect the health of ordinary Americans. They encouraged Americans to turn their backs on the industry and its products, and that stopped many of the practices

that helped to kill people addicted to tobacco. We believe the same advantages could and should be enjoyed here in Ontario by this kind of legislation.

We believe that limiting the ability of tobacco companies to mislead and addict our citizens would be a tremendous step. These limitations are well justified by the public health risk posed by tobacco—and I've already spoken about that—and by the enormous financial burden tobacco use creates for all of us taxpayers and by the siphoning away of precious health care resources to treat its victims. This is not a normal industry or a legitimate business that can lay claim to being bullied or unfairly targeted, and I've heard some questions about that. This is a different business, and everything contained in that lawsuit was well deserved.

So now, Ontario, along with British Columbia, New Brunswick, Newfoundland, Nova Scotia, Saskatchewan and Manitoba—all of these provinces can pursue the same exercise in accountability and reap the same benefits. Ontario must join this legal action to look out for the interests of its citizens, because the tobacco industry is only concerned about profits and addicting more people to its hazardous product.

Certainly, billions of dollars in settlements would be welcomed, both as a deterrent to future misbehaviour but also as compensation for the massive health costs that tobacco has created. I would say that it would be even more welcome if the government were prepared to commit all those settlement monies to research, to cessation treatment and prevention of tobacco-related diseases.

So, as we have been doing since 2006, we at the foundation encourage you, the government, to push forward with litigation against the tobacco industry to expose deceptive practices. Now is the time. With other provinces on board and able to show a united front, now is the time to recover the public's tax dollars and safeguard our children from future addiction. And now, as always, is the right time to pursue justice and uncover the truth but, most importantly for us, protect public health.

In conclusion, we are pleased to support Bill 155 and we thank the Premier and the Attorney General for taking this important step. Now I'm happy to answer questions.

The Chair (Mr. Lorenzo Berardinetti): Thank you. There are almost nine minutes. The last time we started with the Conservatives. Mr. Kormos, do you have any questions?

Mr. Peter Kormos: New Democrats are supporting this legislation. We indicated as much in the Legislature. The legislation is going to pass before June 4. We have concerns over it, concerns that it's largely a symbolic gesture, because of course there's no certainty about success in litigation. But it has to be done because, as you say, and other presenters have indicated, the insurance company has to be brought to justice—not the insurance company—

Laughter.

Mr. Peter Kormos: See, the auto insurance industry is yet another parasitic industry. But the tobacco industry has to be brought to justice.

One also is concerned about the fact that prohibition is never going to happen, other than through the back door, by making smoking illegal in any number of places and now cities like Hamilton, which is considering illegalizing it where second-hand smoke will have any effect whatsoever—interesting legislation. I get complaints in my riding, and I experience it myself, about apartment buildings, for instance, and condominiums, where people make big investments and then have smokers next door where the smoke seeps in. Their right to smoke certainly extends far beyond the threshold of their door.

But the problem is that youth smoking—and all I've got is the newspaper reports of any number of studies. I live down in Niagara region. We're close to Hagersville and Caledonia. There are very, very cheap tobacco products coming off of native reserves. The observation—and I trust it's accurate; nobody's disputed it—that kids, because kids have less money than adults tend to do, are attracted to cheap tobacco: Gosh, all the litigation in the world against the big tobacco companies ain't going to resolve that issue, is it? Because somehow all the educational programs in the world—my generation has quit smoking, and for many of us, it may be far too late; the carcinogenic cells are already implanted.

Ms. Laura Syron: Let's hope not.

Mr. Peter Kormos: Seriously, though—people my age, my generation. But kids are still smoking. I don't have the hard data, but I drive past any high school and I want to get out of the truck and slap them silly. How stupid can you be?

So what's the story? We've had ad campaigns; we've got celebrities; we've got all this stuff. What's going on?

Ms. Laura Syron: There are a couple of things, I think, to sort of tease apart in your question. First of all, and a number of other people have said this, the issue of contraband is a real issue and needs to be tackled by this government. That can happen concurrently to what's going on. Not only does the contraband affect the youth but, as many people have been saying, a number of people in the province, including adults. So Heart and Stroke would be fully supportive of this government taking action on contraband, concurrent with what it's doing, and not waiting.

In terms of youth smoking, overall youth smoking back to when—can I say “when we were young”? It has gone down. But you're right: It's a bigger challenge. There's an attitudinal, psychological issue with that. But again, some of the work that has gone on in Ontario is world-leading, in terms of how we create environments where it's harder for kids to smoke, how we make it not cool to smoke etc. I would say that there's been a lot of success here in Ontario in that.

So I think we have to keep going with it. I think that if we ever in this province think that smoking is done—close that file, move on—we are going to run into exactly what you're saying: We then birth another generation that doesn't know the peril. So we have to keep going on what we're doing, but we just have to do more.

Mr. Peter Kormos: I just wanted to throw that at you.

Ms. Laura Syron: Yes, absolutely.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the Liberals. Any questions, Mr. Zimmer?

Mr. David Zimmer: Thank you for your very thoughtful presentation.

The Chair (Mr. Lorenzo Berardinetti): To the Conservatives: Mr. Dunlop.

Mr. Garfield Dunlop: I don't really have any questions for you, other than I know that your organization does a lot of really positive work across our province. I know we have a very strong Heart and Stroke Foundation in the Orillia area. We have some great speakers every year who talk about all the different issues, not only smoking but child obesity, obesity in general, all the different things that cause sickness to heart and stroke. Really, I just want to thank you for taking part in the committee hearings today.

I think it's safe to say that this bill will pass. It's safe to say that it will get supported by all the political parties, because all the political parties are supportive of this type of legislation. However, I think we've heard other people say here today that if it is successful, if the government wins their lawsuits against the tobacco companies in Canada, I'm not so sure we're going to see this happen overnight, and I'm not so sure we're going to see the money come to the provinces to compensate for some of the expenses they've endured as a result of smoking over the years.

Ms. Laura Syron: Thank you for that, and thank you for your support of our organization and the breadth of what we do.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation and thank you for coming out today.

That completes our list of deputations, members of committee. As Chair, I'm in the hands of committee on whether or not we proceed from here. We had the discussion earlier.

Mr. Lou Rinaldi: Sure. I guess—

Mr. Peter Kormos: I'm sorry, I was going to seek unanimous consent for the committee to proceed.

The Chair (Mr. Lorenzo Berardinetti): All right, so—

Mr. Lou Rinaldi: Sorry, Peter, what did you say?

Mr. Peter Kormos: The Chair might seek unanimous consent for the committee to proceed to clause-by-clause, and that means that any one member can block. I'm throwing that out as a proposition.

Mr. Lou Rinaldi: I certainly support that, Chair.

Mr. Garfield Dunlop: I won't be supporting that. I mentioned earlier how I felt.

Mr. Lou Rinaldi: Chair?

The Chair (Mr. Lorenzo Berardinetti): Mr. Rinaldi?

Mr. Lou Rinaldi: Just a question, I guess, to Mr. Dunlop: Based on what we heard here today, it's a matter of—I know we dealt with it already through unanimous consent. Just a question: The fact is that I think we all agreed with most of the presenters today. I'm not sure what your expectations would be that'll come tomorrow.

The Chair (Mr. Lorenzo Berardinetti): Did you want to answer that or—Mr. Kormos?

Mr. Peter Kormos: Just one minute, Chair. Look, it's not for us to browbeat Mr. Dunlop. Mr. Dunlop has made it clear that he wants to reflect on the material and consider amendments. Unless the government majority is prepared to use its majority to force the committee to proceed, then we can't, because we did make it—I've already indicated I'm ready to go, but we've certainly got to respect another committee member's right when the subcommittee said "may"—and that clearly contemplated any number of things: the number of witnesses, the amount of time left and whether or not a particular caucus wanted to consider amendments.

I'm ready to go; Mr. Dunlop says he's not. So either the government's prepared to use its majority to force Mr. Dunlop to proceed, which I think would be a relatively unfair exercise of power, or we adjourn to the next possible date.

Mr. Lou Rinaldi: Chair?

The Chair (Mr. Lorenzo Berardinetti): Mr. Rinaldi.

Mr. Lou Rinaldi: Just for clarification, Mr. Kormos, I think we indicated that we're prepared to wait. My question was, based on the deputations today, whether there were any further thoughts. I wasn't forcing anything. I think we have a right to—

Mr. Peter Kormos: Yes, but you wanted him to answer your questions. He doesn't have to answer those questions.

Mr. Lou Rinaldi: He doesn't have to answer the question; you're right.

The Chair (Mr. Lorenzo Berardinetti): The only other question I wanted to put is a deadline, then. I know we'd meet again—the next date would be a week from today, the 14th. So we need a deadline for amendments, to set a date for the deadline. Mr. Kormos?

Mr. Peter Kormos: What I'm asking now is, does the committee have any interest in seeking permission from the House to meet earlier than Thursday of next week?

Mr. Lou Rinaldi: I'd be more prepared to do that, yes.

Mr. Peter Kormos: So here we are: We meet on Thursday, pursuant to standing orders. We have all day tomorrow—Monday—to consider whether we want to seek permission from the House by way of an order for unanimous consent to meet on Tuesday at 4 o'clock or at 8—7:30 in the morning, 7:30 a.m. You buy lunch—or breakfast.

Mr. Lou Rinaldi: Not a problem.

Mr. Peter Kormos: At 7:30 at night, you buy dinner.

Mr. Garfield Dunlop: Mr. Chair, I have no problem with that. I just wanted an opportunity to make sure—I've never seen this happen at a committee hearing before. I want the opportunity for the general public to have an opportunity to get a hold of any of us for amendments. It's as simple as that. I'm not here to try to kill the bill in any way; I just want the opportunity for people to make that amendment. If it happened that we passed this today and someone contacted my office on Monday by e-

mail and said, "You know, I think the bill should be amended this way," I would feel kind of guilty that I went—

Mr. Peter Kormos: Oh hell, Garfield, and then you'd blame it on the Liberals.

Mr. Garfield Dunlop: Yes, I would. But the reality is, if in fact we go ahead, I have no problem meeting at—let's say we call clause-by-clause amendments in by Monday at 4 o'clock, something like that. If you want to meet Tuesday morning or something, or Tuesday afternoon, I have no problem doing that.

The Chair (Mr. Lorenzo Berardinetti): Okay. That would be up to the government House leaders, then, to decide.

Mr. Peter Kormos: So let's adjourn, which means our next standing-order sitting date, and between now and then we can do any number of things.

The Chair (Mr. Lorenzo Berardinetti): All right. But we don't have to set a date, then, at this point, for the deadline? Because we don't know the date that we're going to meet on.

Mr. Peter Kormos: We could still set a date. I agree that Monday at noon—is that what you're suggesting?

Mr. Garfield Dunlop: Monday at noon, Monday at 4 o'clock: That would be fine—just in case someone does come forward.

Mr. Lou Rinaldi: I would suggest Monday at noon because then if there are some amendments, we have some time, in case we want to meet earlier.

Mr. Garfield Dunlop: That would be fine. I'll agree to that and I'll second that motion.

The Chair (Mr. Lorenzo Berardinetti): So Monday at noon for any amendments. All in favour? Opposed? Carried.

The Clerk of the Committee (Ms. Susan Sourial): Can I just clarify? At the moment, we're looking at a meeting next Thursday—

Mr. Jeff Leal: Yes.

The Clerk of the Committee (Ms. Susan Sourial): —in the afternoon—

Mr. Jeff Leal: As per the standing orders.

The Clerk of the Committee (Ms. Susan Sourial): As per the order of the House?

Mr. Jeff Leal: Yes.

The Clerk of the Committee (Ms. Susan Sourial): I'll send out a notice, and then if things change, they change.

Mr. Garfield Dunlop: It will be a motion in the House, right?

The Chair (Mr. Lorenzo Berardinetti): Peter's going to go in there right now, talk to the House leaders and get it changed.

Mr. Garfield Dunlop: Okay.

The Chair (Mr. Lorenzo Berardinetti): A motion to adjourn?

Mr. Peter Kormos: We're finished.

The committee adjourned at 1533.

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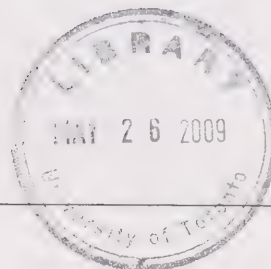
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Première session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 13 May 2009

Journal des débats (Hansard)

Mercredi 13 mai 2009

Standing Committee on Justice Policy

Tobacco Damages
and Health Care Costs
Recovery Act, 2009

Comité permanent de la justice

Loi de 2009 sur le recouvrement
du montant des dommages
et du coût des soins de santé
imputables au tabac

Chair: Lorenzo Berardinetti
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICY

Wednesday 13 May 2009

COMITÉ PERMANENT
DE LA JUSTICE

Mercredi 13 mai 2009

*The committee met at 1434 in committee room 2.*TOBACCO DAMAGES
AND HEALTH CARE COSTS
RECOVERY ACT, 2009LOI DE 2009 SUR LE RECOUVREMENT
DU MONTANT DES DOMMAGES
ET DU COÛT DES SOINS DE SANTÉ
IMPUTABLES AU TABAC

Consideration of Bill 155, An Act to permit the Province to recover damages and health care costs incurred because of tobacco related diseases and to make a complementary amendment to the Limitations Act, 2002 / Projet de loi 155, Loi autorisant la province à recouvrer le montant des dommages et du coût des soins de santé engagés en raison des maladies liées au tabac et à apporter une modification complémentaire à la Loi de 2002 sur la prescription des actions.

The Chair (Mr. Lorenzo Berardinetti): We'll call the meeting to order. We're dealing with Bill 155, An Act to permit the Province to recover damages and health care costs incurred because of tobacco related diseases and to make a complementary amendment to the Limitations Act, 2002.

Are there any comments, questions or amendments to any section of the bill, and if so, to which section? None?

Mr. Peter Kormos: The Chair meets silence.

The Chair (Mr. Lorenzo Berardinetti): As there are no amendments, do I have permission to collapse sections 1 to 14 and to move all sections simultaneously? Agreed? Agreed. Thank you.

The final thing is—

Interjection.

The Chair (Mr. Lorenzo Berardinetti): Sections 1 to 14 are carried.

Interjection.

The Chair (Mr. Lorenzo Berardinetti): Shall they—

Mr. Peter Kormos: You're not going to invite any debate on them?

The Chair (Mr. Lorenzo Berardinetti): Okay. If you want me to be formal about it, then I will ask. Is there any debate on sections 1 to 14? There is no debate. Shall sections 1 to 14 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 155 carry? Carried.

Shall I report the bill to the House? Agreed? Agreed.

Mr. Garfield Dunlop: Can I make one comment?

The Chair (Mr. Lorenzo Berardinetti): Yes, Mr. Dunlop.

Mr. Garfield Dunlop: I think we're all in favour of this legislation. We've seen it in other provinces, and as it moves forward, we hope that it will have an impact on smoking and stopping people from smoking etc. The government of Ontario has historically collected a lot of revenues from the tobacco companies. They've supplied a lot of revenues to this province, and we all know that. But I think there's a moral responsibility for the province of Ontario—and I'm not saying it's just the responsibility of the province of Ontario—in conjunction with the federal government, to really take a more aggressive role in contraband cigarettes. Particularly in our First Nations, we see it—I can tell you, if you folks ever want to come up and do a tour of eight or 10 First Nations and see the smoke shops and see the advertising etc., everything is in exact contravention of what we allow under the Smoke-Free Ontario Act. So if we're going to go after tobacco companies and sue them and go after them legally, I think we have a real responsibility, with the money we collect from them, to stop what's happening with our First Nations and illegal smoking here in the province of Ontario. I wanted to put that on the record. I think it's only fair that we do so.

The Chair (Mr. Lorenzo Berardinetti): Thank you.

A motion to adjourn? Mr. Levac.

Mr. Dave Levac: I did not want to enter into this, except to make sure a point is made: I hope there would not be, through the previous statement, an assumption that nothing is being done. I would think that that's not true. In case there's an assumption that nothing is being done, there is something being done, and it is a very complex issue.

I appreciate what Garfield Dunlop is saying, but I think at the same time, there needs to be an understanding that it's not fair to imply any other way—and I didn't hear that from Mr. Dunlop, but there have been some comments that nothing's being done. I personally resent it, and I'm sure that law enforcement officers in Canada, Ontario and locally are in agreement that things are being done, but maybe not to the satisfaction of some.

Mr. Garfield Dunlop: If I may, the general public feels that nothing is being done, that there's been a blind eye turned to it. I think that if you wanted to bring credibility to these ministries, what we should do is have a report back from the ministries to the House just giving

us an update, giving us a report on what exactly is being done, because the small store owner or the convenience store owner who's just been made to spend a lot of money on a power wall doesn't think a lot's being done.

The Chair (Mr. Lorenzo Berardinetti): That would be outside of this committee.

Mr. Garfield Dunlop: Yes, I understand.

The Chair (Mr. Lorenzo Berardinetti): A motion to adjourn: All those in favour? Opposed? Carried.

The committee adjourned at 1439.

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Mr. Peter Kormos (Welland ND)

Mr. Jeff Leal (Peterborough L)

Mr. Dave Levac (Brant L)

Mr. Reza Moridi (Richmond Hill L)

Mr. Lou Rinaldi (Northumberland–Quinte West L)

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke PC)

Mr. David Zimmer (Willowdale L)

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Journal des débats (Hansard)

Jeudi 17 septembre 2009

Standing Committee on Justice Policy

Ontario College of Trades
and Apprenticeship Act, 2009

Comité permanent de la justice

Loi de 2009 sur l'Ordre des métiers
de l'Ontario et l'apprentissage

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

Président : Lorenzo Berardinetti
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 17 September 2009

Jeudi 17 septembre 2009

The committee met at 0905 in room 151.

The Vice-Chair (Mr. Jeff Leal): Okay, we'll bring this meeting of the Standing Committee on Justice Policy to order. We are reviewing Bill 183, which is the Ontario College of Trades and Apprenticeship Act, 2009.

SUBCOMMITTEE MEMBERSHIP

The Vice-Chair (Mr. Jeff Leal): The first item of business is the subcommittee membership. Mr. Flynn, please, the parliamentary assistant.

Mr. Kevin Daniel Flynn: Thank you, Mr. Chair. I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee is necessary to constitute a meeting; and

That the subcommittee be composed of the following members: the Chair as Chair; Mrs. Elliott, Mr. Kormos, Mr. Zimmer; and that substitution be permitted on the subcommittee.

The Vice-Chair (Mr. Jeff Leal): Thank you very much, Mr. Flynn. Any debate? No debate? All in favour? Carried.

SUBCOMMITTEE REPORT

The Vice-Chair (Mr. Jeff Leal): The next item of business is the report of the subcommittee dated June 16, 2009. Mr. Zimmer, please.

Mr. David Zimmer: Thank you, Chair. Your subcommittee on committee business met on Tuesday, June 16, 2009, to consider the method of proceeding on Bill 183, An Act to revise and modernize the law related to apprenticeship training and trades qualifications and to establish the Ontario College of Trades, and recommends the following:

(1) That the committee holds public hearings at Queen's Park on Thursday, September 17, 2009, and Thursday, September 24, 2009, during its regularly scheduled meeting times until 5 p.m.

(2) That the committee clerk, with the authority of the Chair, post information regarding the committee's business for one day during the last week of August in the following publications: the National Post, the Globe and

Mail, the Toronto Star, the Toronto Sun, Le Droit, and the Daily Commercial News.

(3) That the committee clerk, with the authorization of the Chair, post information regarding the committee's business on the Ontario parliamentary channel and the committee's website.

(4) That groups and individuals be offered 15 minutes in which to make a presentation.

(5) That interested people who wish to be considered to make an oral presentation on Bill 183 should contact the committee clerk by 12 noon, Thursday, September 10, 2009.

(6) That if all groups can be scheduled, the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties.

(7) That, if all groups cannot be scheduled, each of the subcommittee members provide the committee clerk with a prioritized list of names of witnesses they would like to hear from by 4 p.m., Friday, September 11, 2009, and that these witnesses must be selected from the original list distributed by the committee clerk to the subcommittee members.

(8) That the Ministry of Training, Colleges and Universities be asked to provide the committee with Bill 183 briefing binders prior to public hearings.

(9) That the appropriate Ministry of Training, Colleges and Universities staff associated with Bill 183 be asked to provide a 15-minute technical briefing at the outset of public hearings on Thursday, September 17, 2009, and that each of the three parties be afforded five minutes to ask questions following the technical briefing.

(10) That the deadline for written submissions be 5 p.m., Thursday, September 24, 2009.

(11) That the research officer provide the committee with a summary of witness testimony prior to clause-by-clause consideration of Bill 183.

(12) That the administrative deadline for filing amendments be 4 p.m. on Monday, September 28, 2009.

(13) That the committee meet for clause-by-clause consideration on Thursday, October 1, 2009.

(14) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

I move that, Chair.

The Vice-Chair (Mr. Jeff Leal): Thank you very much, Mr. Zimmer. Any debate? All in favour? Carried.

Now we'll have the very able Chair Mr. Berardinetti come to the front here.

ONTARIO COLLEGE OF TRADES AND APPRENTICESHIP ACT, 2009

LOI DE 2009 SUR L'ORDRE DES MÉTIERS DE L'ONTARIO ET L'APPRENTISSAGE

Consideration of Bill 183, An Act to revise and modernize the law related to apprenticeship training and trades qualifications and to establish the Ontario College of Trades / Projet de loi 183, Loi visant à réviser et à moderniser le droit relatif à la formation en apprentissage et aux qualifications professionnelles et à créer l'Ordre des métiers de l'Ontario.

MINISTRY OF TRAINING, COLLEGES AND UNIVERSITIES

The Chair (Mr. Lorenzo Berardinetti): Good morning, and welcome. The first item on the agenda at this point is the technical briefing by the Ministry of Training, Colleges and Universities. I'd like to invite up Patti Redmond, director, programs branch; Linda Jones, manager, standards and assessment; and Michelle Pottruff, legal counsel. I hope I got those pronunciations correctly. I apologize if I didn't.

0910

The time limit that we've established for this committee is 15 minutes. If you finish early, we'll have some questions.

Ms. Patti Redmond: All right, thank you.

The Chair (Mr. Lorenzo Berardinetti): Actually, there's a total of half an hour, so 15 minutes for your presentation and then up to 15 minutes for questions.

Ms. Patti Redmond: Thank you very much. My name is Patti Redmond, and I'm the director of programs branch. I'll walk you through the presentation in the 15 minutes, and then my colleagues and I will answer any questions that you have. I'll be referring to the presentation that we've included in your package in tab 3 of the binder. The purpose of our presentation here today is to provide you with an overview of the bill and some of the background leading up to it.

The outline on slide 1 is just an overview of the presentation. Quickly, in terms of context, the establishment of the college of trades, the all-trades governance institution, was a key recommendation of the compulsory certification review. The ministry engaged Kevin Whitaker, Ontario Labour Relations Board chair and a respected labour relations expert, to look at the implementation of a college of trades. Mr. Whitaker's report is also included in your binder. Mr. Whitaker did consult with stakeholders as part of his mandate.

Slide 3 of your presentation just provides you with a bit of background on the apprenticeship and trades

certification system in Ontario. Just to highlight a couple of key points: There are over 150 apprenticeable trades in Ontario, and they are divided into four sectors. Twenty-one of those trades are considered compulsory, meaning that you must be certified to work in that particular trade. The other slide just deals with some of the other information with respect to the system.

Slide 4 in your presentation material just provides you with an outline of Mr. Whitaker's report. We have, as I said, included the full report in your binder and a summary of the recommendations as an appendix to this particular slide presentation.

In terms of the proposed legislation, the key features of it would be to establish the college of trades as an arm's-length governing institution that would have as its primary goal to protect public interest and regulate persons practising in the skilled trades in Ontario and the employers who employ them. The bill outlines that membership of the college of trades would include all certified journeypersons in compulsory and voluntary trades and the employers who employ them.

The proposed legislation would create an appointments council with the function to appoint members of the overall governance structure of the college of trades, and I'll talk about that a bit more in a second. It would empower the college with the responsibility of establishing training standards and determining whether a trade should be compulsory and what apprenticeship-to-journeyperson ratio should apply. That applies to certain trades within the system. The proposed legislation also sets out the functions that are retained by the ministry.

There are two existing acts that govern the apprenticeship and skilled trades system in Ontario, the Apprenticeship and Certification Act and the Trades Qualification and Apprenticeship Act. Those two acts would be repealed as a result of the proposed bill.

In terms of key features on slide 6 of your slide package, there are certain prohibitions contained within the proposed legislation: prohibiting individuals from practising in a compulsory trade—that is something that is currently in place; prohibiting individuals from holding themselves out as having a certificate of qualification in a voluntary trade unless that person does hold a valid certificate; prohibiting somebody from employing an individual to work in a compulsory trade unless they hold a certificate of qualification; continued on slide 7 of your package—prohibiting somebody from using the title of a compulsory trade unless they hold a valid certificate; prohibiting a person from representing that they are a member of the college unless they are; and from employing a journeyperson or sponsoring or employing an apprentice unless they hold a valid statement of membership.

The legislation would also require that a sponsor of an apprentice ensure that an apprentice is working in accordance with the journeyperson-to-apprentice ratio.

On slide 8, we outline the key features. As I said earlier, the proposed legislation would establish the Ontario College of Trades with a duty to protect the public

interest, and that would be consistent with other regulatory bodies. Then the slide outlines some of the key objects of the college, including regulating the practice of trades; developing, establishing and maintaining qualifications for membership; promoting the practice of trades; maintaining a public register; and the other things that are outlined on this slide in terms of the key objects of the college.

On slide 9, we outline what the proposed legislation creates in terms of the governance structure for the college. So it would create a board of governors to manage and administer the affairs of the college. The proposed legislation has this board of governors having 21 members made up of four members from each of the divisions that are within the skilled trades system—construction, motive power, industrial and service sectors—and within those four members, two members from each of the sectors would be employee representatives and two members would be employer representatives, and then the balance of the board being made up of five members who represent the public.

The proposed legislation also sets up four divisional boards and trade boards for trades or groups of trades and review panels that would be responsible for dealing with issues of ratio and compulsory certification.

On slide 10, we outline key features of registration, complaints and discipline with the proposed legislation. The college would have classes of members in addition to certified journeypersons in compulsory and voluntary trades and employers of journeypersons and apprentices and sponsors of apprentices. The board would have the ability to prescribe other classes within regulation. One of the main features in terms of registration would be the issuance of certificates of qualification to journeypersons and statements of membership to other members. As I mentioned earlier, there would be a register of members of the college available to the public, and consistent with other regulatory bodies, there would be committees dealing with registration, appeals, complaints, discipline and fitness to practise. Those are all outlined in the proposed legislation.

On slide 11, we outline some of the key features in terms of the registrar's power of investigation and inspection. Basically, they would have the ability to appoint individuals to inspect and investigate for the purposes of determining whether the proposed legislation and requirements and prohibitions within the bill are being complied with, and provide for the inspection of members if there are reasonable or probable grounds that the member has committed an act of professional misconduct or is incompetent, and in addition, as I said earlier, provide for inspections for the purposes of determining compliance with prohibitions that are outlined in the bill and that I spoke about earlier.

On slide 12, we outline some of the additional key features related to issues of ratios, compulsory and voluntary trades, and as I mentioned, the proposed legislation would give the board responsibility for prescribing the criteria and process to be used by review panels in

determining what the appropriate journeyperson-to-apprenticeship ratios would be for trades and prescribing a process for initiating a review, as well as the criteria to be used by review panels in determining whether a trade should have the status of compulsory or voluntary.

On slide 13, we outline what the proposed legislation creates in terms of the appointments council. It would establish a nine-member appointments council that is appointed by the Lieutenant Governor in Council, and give that council the responsibility of appointing the members to the board—the 21 members that I outlined earlier—those divisional boards for the four sectors of the trades, the trade boards that would represent the trades and group of trades, as well as the roster of adjudicators that would be responsible for the review panels for ratios and compulsory certification. The proposed legislation outlines that the appointments council take into account the diversity of the province when appointing those members. It also provides for administrative support that the ministry considers necessary for the council.

0920

On slide 14, we outline some of the features that relate to the apprenticeship system. Within the proposed legislation, the government is retaining certain functions for apprenticeship, including the registration of training agreements, which is the actual registration of the apprentice and the employer, and approving apprenticeship training providers. Those are the training delivery agents who provide the in-school portion of the training for the apprenticeship system. In addition, it would establish a minimum age requirement of 16 years of age for an apprentice and provide for wage rates, which are something that exist within the Trades Qualification and Apprenticeship Act for part of the system.

On slide 15, there are some other requirements in terms of the apprenticeship system that are outlined in the proposed legislation: providing for the hours of work; allowing the minister to appoint inspectors, in terms of ensuring the compliance with what is essentially the precertification phase with respect to registered training agreements and apprenticeship programs; and permitting the minister to establish and charge fees relating to the functions—so essentially that precertification phase.

On slide 16: The proposed legislation does outline the requirements in terms of transition; obviously, moving from what is the current system to what would be the new system under the proposed legislation. That nine-member appointments council that I referred to earlier would act as the first board of governors until the board of governors is appointed. In addition, there would be transition provisions for journeypersons who hold certificates of qualification under the existing pieces of legislation, obviously respecting our existing contracts and allowing for the continuation of things related to compulsory trades or voluntary trades, and the ratios as well.

The appendix of the slide deck, as I mentioned earlier, outlines the 19 recommendations that were provided

within the Whitaker report. They are, as I said, summarized here within the slide presentation.

That concludes our overview of the slide presentation. We'd welcome the opportunity to respond to any questions from members.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much. We'll divide the next 15 minutes up—you were almost exactly 15 minutes long, which is very good—between the different parties that are here. We'll start on this side, with the Liberal Party. Mr. Zimmer, you have a question?

Mr. David Zimmer: It's just on slide deck number 9: the composition of the board of governors. The first bullet point outlines the composition of the board of governors, and the second bullet point says, "set up four divisional boards ... trade boards ... and review panels." Can you just explain the relationship and the interaction between the divisional boards, the trade boards, the review panels and the board of governors? How is that going to unfold?

Ms. Patti Redmond: Sure. The board of governors would essentially be governing the college of trades as a whole. Reporting to it would be four divisional boards that would represent construction, motive power, the service sector and the industrial sector. I think the structure is such that there would be a number of issues that would be dealt with at the divisional board level that would relate to those four sectors. Then, within each of those four sectors, there would be the trade boards. They would represent and deal with issues that would be very specific to a particular trade. So the training standards for electricians would be considered at a trade board, obviously with some guidance from the divisional board, as it relates to the division as a whole, and with the board of governors, which oversees the entire college.

I think the structure is such that it recognizes there is a tremendous amount of diversity within the 155 trades that are part of the apprenticeship system in Ontario, and that there are many issues that are quite specific to certain trades. That's why you have that particular structure.

Mr. David Zimmer: And the review panels?

Ms. Patti Redmond: The review panels would be specifically responsible and created from time to time to deal with whether a trade should be compulsory or voluntary and what the journey person-to-apprenticeship ratio should be for a particular trade. They would be essentially struck, if I could put it that way, when those issues are being considered for a particular trade.

Mr. David Zimmer: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Mr. Leal.

Mr. Jeff Leal: Thank you so much for your presentation. I just want to ask about section 60. This is certainly an issue that has concerned Mr. Rinaldi and myself. Particularly in east-central Ontario, the issue of ratios has been a topic of intense discussion. My quick question is: Explain the rationale for a four-year review. Is it better than two or three or 10?

Ms. Patti Redmond: I think that when we gave consideration to that period of time, it was that, obviously, you want to—

Mr. Jeff Leal: I mean, I see this as a very progressive step.

Ms. Patti Redmond: Yes. There isn't any specific time period that exists within the apprenticeship system, and it seemed, I think it's fair to say, a reasonable period of time by which consideration should be given to what the ratio should be, allowing for a certain period of time by which there could be changes to the requirements within a particular trade, because these occupations evolve at all times as new technology is introduced and as different approaches are introduced. It seemed that that was an appropriate period of time.

Mr. Jeff Leal: I thought there might be a relationship, because normally it's a four-year cycle for the training period for many apprenticeships. You would have a new crop of apprentices coming out every four years, and that might be the opportune time to look at ratios. That was at the back of my mind when I was reading this particular section of the bill.

Ms. Patti Redmond: You're absolutely right. Although the length of time somebody is in an apprenticeship can vary, obviously, by what the trade is, but for many—

Mr. Jeff Leal: Plumbing and electricians are often a four-year cycle.

Ms. Patti Redmond: —of those that are subject to ratios, that is around the length of time. I think that, in terms of consideration, it seemed appropriate, given the sort of cycles—

Mr. Jeff Leal: Between classroom and in-field experience.

Ms. Patti Redmond: That's right.

Mr. Jeff Leal: Okay, thank you very much.

The Chair (Mr. Lorenzo Berardinetti): We've used up the five minutes for the Liberal side. I'm going to go over to the Conservatives and the NDP at this time. I know there are some individuals with questions there, so either Mr. Bailey or Ms. Elliott.

Mr. Robert Bailey: Thank you for the presentation. I have a couple of questions. I understand that, as it's drafted presently, there's no representation for the colleges of Ontario on the board. Is that proposed?

Ms. Patti Redmond: That's correct. The membership of the 21-member board would be for individuals from each of the four sectors, plus five persons who would represent members of the public. It is our anticipation that the college would obviously have to work closely with all the training delivery agents, which includes the community colleges—there are 65 training delivery agents; the community colleges and other trainers out there—in order to ensure the training standards, in terms of the in-school portion, as the ministry does now in terms of working with them.

0930

Mr. Robert Bailey: I guess that was their question to me. They wanted to know, because they would be responsible for help, possibly developing curriculum, if they were going to be involved with the board to help draft that.

Ms. Patti Redmond: It is our anticipation that the college, in order to ensure that the training standards align with the in-school portion, would have to work closely with the training delivery agents.

Mr. Robert Bailey: The other question they had was, are public institutions exempt from this act?

Ms. Michelle Pottruff: In what sense do you mean?

Mr. Robert Bailey: If they were doing training for their own employees, would they have to adhere to the same standards? Sometimes in legislation, we—the provincial government—exempt ourselves.

Ms. Michelle Pottruff: No. As it's drafted, everyone would be included. But there are exemption provisions that can be done by regulation, and who exactly will be exempted from all or certain portions of the act has yet to be determined.

Mr. Robert Bailey: Do I have a little time?

The Chair (Mr. Lorenzo Berardinetti): Three more minutes.

Mr. Robert Bailey: The \$100 fee—I guess it's been established?

Ms. Patti Redmond: If I could just correct: Mr. Whitaker's report talked about that as a fee, but the fees would be established by the college. That would be a decision of the college.

Mr. Robert Bailey: Would that be over and above? Say you're an electrician and you pay your union dues every month. Currently they pay a fee, apparently to register every year—I don't know what it is; I'm not a part of that. Would this be over and above that, or would this supersede that? Do you know?

Ms. Patti Redmond: I'm not really sure what fee would be in addition. Again, it would be a decision of the college in establishing its fee structure. I don't want to speak on behalf of it, because that is a decision it has to make about what the fee structure should be. It will likely take into account what other fees individuals might have to pay. The ministry currently collects fees from journey-persons for certificate renewal purposes, and we would no longer do that. That would become a responsibility of the college. So it wouldn't be in addition to the ministry fees related to that, but whether an individual has other fees not related to the ministry and their membership in the college would be a decision the college would have to make.

Mr. Robert Bailey: That was the question that I had.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the NDP. Mr. Marchese.

Mr. Rosario Marchese: I just have a quick question for the ministry officials. You will recall that the Auditor General's report was very critical of many of the things that happened or didn't happen. The question is: Do you anticipate that the college of trades will answer many of the questions that have been raised over many years and that they would be able to deal with all the various complaints that the Auditor General raised? If so, how, and what specifically is in the college of trades that would deal with all the questions he raised?

Ms. Patti Redmond: In terms of?

Mr. Rosario Marchese: In terms of many registrants but few completing the program, in terms of the fact that there are 100 consultants who deal with 35,000 employers—all those various questions. You'll remember the auditor's report, I'm sure.

Ms. Patti Redmond: Yes, I do, Mr. Marchese, and I think the college has, as its objects, many things in terms of promotion of the trades. Obviously, it is industry-driven, and so industry is represented there in terms of promoting completions and things like that. So the college would have an important part in dealing with the issues that were raised as part of the auditor's report. But obviously the college and the ministry would continue to have to work together in addressing those types of issues as part of the system.

Mr. Rosario Marchese: It's not very reassuring. That's my point.

Ms. Patti Redmond: I think that, as I said, it has, as one of its primary objects, promotion of the trades.

Mr. Rosario Marchese: I understand, and that's a separate issue and I hope they will do that. I don't know how they will do that, but I suspect they will somehow. But it's not clear how they might do it, even though that's one of the objectives. But the rate of completion of certification has been very poor over the last seven to 10 years, and we've known about it for a long, long time. We're assuming that the college of trades will actively deal with that. Do we have a sense of how they're going to do that, or do we simply hope they will do that?

Ms. Patti Redmond: As I outlined, the college has some specific responsibilities related to the promotion. Obviously the proposed bill includes some of the roles and responsibilities and how it will deal with those kinds of issues. The college will have to make those decisions about how it approaches that, but that is one of its primary objects.

Mr. Rosario Marchese: Thank you, Patti. Thank you, Chair.

The Chair (Mr. Lorenzo Berardinetti): We'll then go back—we have a couple of minutes left—to the Liberal Party. Mr. Rinaldi.

Mr. Lou Rinaldi: Just a quick question. I think it's a good presentation, and thank you very much, but could you clarify—and I'm not sure what page or tab number. You refer to consumer protection to deal with that piece. We talked about the mechanism, the very technical part of what the college will do and its structure, but at the end of the day Joe Public is the end receiver of whatever product we produce or whatever you folks do. The college structure, as it goes through the process: Will we be able to tell consumers that they'll be more protected than they presently are today, whatever shape it's going to take, or do you anticipate that? I guess it's hard—

Ms. Patti Redmond: Yes. Obviously, as I mentioned earlier, there are some specific requirements within the proposed legislation that provide for things like a public registry of members so that members of the public would now be able to see who is certified and a member of the college. As I outlined earlier, the proposed legislation

includes provisions related to the discipline of members, the prohibitions, the inspection, and the investigation activities related to this.

Mr. Lou Rinaldi: Thank you. I think that answered my question.

The Chair (Mr. Lorenzo Berardinetti): One more question. Mr. Moridi?

Mr. Reza Moridi: Thank you, Ms. Redmond, for this presentation. In the proposed legislation, classes of memberships are proposed. One is for certified journeyperson and also people who employ certified journeypersons, and then the next category is "others." Could you please elaborate on that very point, what those others might be?

Ms. Patti Redmond: Yes. The proposed legislation gives the ability of the college to create other classes of members and an opportunity for the college to determine what those classes would be. It may include, as a class of member, persons who are working in the voluntary trades who haven't sought certification or apprentices. So I think, in drafting the proposed legislation, the college would have to consider what those classes may be and create those classes of membership.

Mr. Reza Moridi: Thank you.

The Chair (Mr. Lorenzo Berardinetti): That completes our time. I want to thank you for coming out and doing your presentation and for answering questions from committee.

Ms. Patti Redmond: Thank you.

CANADIAN FEDERATION OF INDEPENDENT BUSINESS

The Chair (Mr. Lorenzo Berardinetti): Pursuant to our subcommittee decision, we're now going to call for deputations. The first one will be the Canadian Federation of Independent Business. Each deputation will have 15 minutes. If you finish early, any time left over will be used up with questions. So I want to welcome Mr. Satinder Chera, director of provincial affairs, and Mr. Plamen Petkov, senior policy analyst. Good morning, and welcome.

Mr. Satinder Chera: Thank you, Mr. Chair, and good morning, everyone. On behalf of our members, the 42,000 small and medium-sized members that are in the Canadian Federation of Independent Business in Ontario, we appreciate this opportunity to share with you their concerns with Bill 183. We will be speaking from the slide deck that is in your kit. The materials in the kit are also referred to in our presentation entitled *Replacing One Problem with Another*.

Going to page 1, the bottom slide there, just to give you an indication of the makeup of our membership, we represent virtually every sector of the economy. Our members set association policies through our one member-one vote system.

Going to page 2, the top slide, we want the committee to keep this fact in mind as it goes through its deliberations, which is that the small and medium-sized enterprise sector represents more than half the employment of

the province, more than half the GDP, and 81% of Ontario businesses right now have fewer than five employees. Certainly with this recent downturn in the economy, an increasing number of Ontarians are looking to self-employment for the road ahead.

0940

The bottom slide on page 2 speaks to our business barometer that we do now on a monthly basis. This gauges our members' expectations for the economy. Thankfully, the most recent one, from August, shows a turnaround in small business expectations, trending upward. This is certainly a positive sign.

Going to page 3, the top slide there: There are, however, some major constraints on businesses, and given that our sector creates most of the new jobs both in good times and in bad, dealing with their concerns is absolutely critical. One of the major concerns that they have is the shortage of skilled labour. The bottom of page 3 illustrates that we've done a ton of work around the shortage of qualified labour as well as the training issues going back many years. Most of the studies that are referred to here are in your kits.

With that, I will pass it on to my colleague, Plamen, to take you through the rest of our presentation and our recommendations.

Mr. Plamen Petkov: Thank you, Satinder, and thank you for giving us the time to present today.

In our latest report on training, Canada's Training Ground, which is also enclosed in the materials that we submitted to you, we were able to look into labour shortages in more detail and to come up with a breakdown of labour shortages by skill level. So what this next slide here tells you is that 37% of our members are saying to us right now that they are currently experiencing labour shortages in areas or in jobs that require apprenticeship training. One way for small businesses to deal with these shortages is, of course, to train. In the same report, we estimate that on average, small and medium-sized businesses spend about \$2,700 per employee per year on both informal and formal training. What this chart here shows you is that the smaller the business, the higher the cost of training, which essentially means that the smallest firms out there are disproportionately affected by training costs.

When it comes to apprenticeship training, our members have identified some key reasons that actually motivate them to train apprentices. You see the list in front of you. Apprenticeship training is a good way for them to deal with labour shortages; it helps them prepare the next generation of journeypersons and come up with a succession plan; and, ultimately, it helps them grow their business. At the same time, our members have identified some key challenges that they experience when providing apprenticeship training. The list is pretty sizable. Many members have indicated that they sometimes lose their investment in training when their apprentices are being poached by larger businesses. A lot more needs to be done about the in-class portion of the training so that it doesn't disrupt business operations. I already

talked about how high costs have become and how burdensome they have become for the smallest firms out there, and of course the issue of ratios, especially to the smallest firms in those trades that currently have restrictive ratios.

When it comes to ratios—and the next slide here indicates the major challenges for apprentices—we were able to survey them as well and compare their views with the views of the employers. You would note that the top challenge for apprentices right now is ratios. We've received many comments from apprentices, and there were some really good examples there on how apprentices would actually approach an employer directly to sponsor their training and the employer would not be able to do that because of ratio requirements.

When it comes to incentives within the existing apprenticeship training, the tax credit is a very helpful measure, and we're glad to see that the government has recently enhanced that credit and has made it permanent. At the same time, when we surveyed our members we found out that about half of them were not aware of this credit. We showed these results to the Minister of Finance as well and he was very surprised by this number. Apparently, a lot more needs to be done to promote this credit. Of those members who actually know about it, some of them have commented that they're not in a position to take full advantage of it because they're not allowed to hire as many apprentices as they can because of ratio requirements.

In terms of the existing apprenticeship structure and when it comes to provincial apprenticeship committees, what this next slide shows you is that small business was never really represented on those committees, and, going forward with the elimination of these committees and replacing them by trade boards under the proposed legislation, small businesses are not really convinced that their representation will improve.

Finally, here's a short list of some of the major concerns that our members have expressed in relation to Bill 183. As I mentioned, there is a heightened level of skepticism about whether the proposed college will achieve its goals and create a level playing field. The college will be a self-regulating agency, and our members' experience with such agencies has been primarily negative.

I talked a lot about ratio and about how there is a growing sense of unfairness among our Ontario members in terms of the ratios that are currently in Ontario, in light of the efforts that have been made across the country to reduce ratios in other provinces.

There are no criteria in the proposed bill about the selection of the appointments council. This is going to be a body which we think is going to be of critical importance because this will be the body that will set up the permanent governance board and the review panels that will deal with ratios and compulsory certification. Small businesses want to know who is going to be on that council and whether small business will be represented.

Membership fees are a concern. They're seen as a tax on tradespeople. There's no clarity as to how the piece

will be determined and what the value for money will be to tradespeople who will be paying those fees.

Finally, there is nothing in this bill that will help reduce training costs. On the contrary, actually, training costs may increase because of the new fees that tradespeople will have to pay. We think this may discourage new employers from engaging in apprenticeship training.

We felt that it was important to present these concerns to you today and we hope that you will give them serious consideration. With that, we'll be glad to answer any questions that you might have for us.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have about seven minutes left, so we'll start with the Conservative Party. Ms. Elliott?

Mrs. Christine Elliott: Thank you very much for your presentation—very succinct, very well-organized. I wonder if you could just comment on one of the concerns that you commented on, the second one, that your experience with self-regulating agencies has not been positive. If you could just elaborate on that a little bit.

Mr. Satinder Chera: Happy to. Particularly when you look at, for example, Waste Diversion Ontario, this was a policy that was enacted by the government in 2003. Our experience with them has not been very positive. I think the government at that time wisely recognized that there might be an adverse impact on small businesses, so they specifically built into the legislation a clear requirement that there be a *de minimis* in place so that the smallest of firms wouldn't be adversely impacted. Since then, however, just as we thought, most of the players around the waste diversion group, mostly large businesses and municipalities, would love to see that *de minimis* eliminated. That's just one example.

More recently, the Technical Standards and Safety Authority: The Minister of Consumer Services has introduced legislation to rein in their operations. One of the areas that he's looking at is representation. The other area he's looking at is policy measures. Another example is the Electrical Safety Authority, recently. The Minister of Consumer Services had to intervene to put in place a moratorium on charging of fees on manufacturers at a time when the manufacturing sector was on its knees.

Constantly, what we have found is that with self-regulating entities, small businesses are always drowned out, bar none, consistently. So we have absolutely no confidence that this will address our members' concerns at all. And again, given the track record with other agencies out there, which I would ask the committee to take a look at as well, it hasn't been very, very positive.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on, then, to the NDP. Mr. Marchese.

Mr. Rosario Marchese: How much time do we have?

The Chair (Mr. Lorenzo Berardinetti): About two minutes for questions.

Mr. Rosario Marchese: Okay, thank you. Satinder and Plamen, welcome. You said that the top challenge is the ratio. That's what you said; right?

Mr. Satinder Chera: One of the challenges, yes.

Mr. Rosario Marchese: I heard you say the top, but it is one of them.

Mr. Satinder Chera: Yes, it is.

Mr. Rosario Marchese: But you didn't mention the other two, because I read your report when you sent it six months ago or a year ago. The top one is the following: "Investment in training apprentices might be lost to other firms." That's 57%; that's the top one. That's one of the complaints I've had for a long time, and that is that some firms invest and some do not because they're afraid they will lose it to others who are not investing. So we don't deal with that at all and you don't speak to that, but that's the biggest challenge. The other one is, "Releasing apprentices for in-class training disrupts business"—that's 34%—which means, "It's going to disrupt business, therefore we can't send them even though training is good." But that's 34%. The next one is, "Costs to supervise and train apprentices are too burdensome." That's 32%. Then below that is, "Rules on journey person-apprentices." That's the fourth. But there are three other top challenges above that one which are serious.

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I believe businesses need to invest in apprentices, and you say they do, informally and formally, up to 2,700. I'm not sure they all do that, and whether it's mostly informal or formal. But I believe business has to contribute to that labour shortage you were speaking to, because that's in your interest.

I know some small businesses will have a hard time in terms of investing. That's where governments have to step in to be helpful. But I believe, like Quebec does, we should be investing in the training of our own workers, because we all benefit.

Your comments?

Mr. Plamen Petkov: I will be glad to address that. Thank you for your question, Mr. Marchese.

You would know that we met with you last year and briefed you on the results of this report. Thank you for taking the time and giving us the opportunity to do that. I also know that you have been referring to our research in the House during debate, so thank you for doing that as well.

When it comes to these challenges, let me be very clear about this specific chart, where it identifies major challenges to business owners. This sample here includes responses from members who trained in all trades. This does not include only members who trained in those trades that have restrictive ratios, right? So here, when people answered this question, they could be people who actually trained in those trades that currently don't have any ratios.

Now, when we take the sample of those members who are in those trades that have restrictive ratios, that factor here about ratios, the number jumps immediately from 27%. That, for those people in those trades, is their top concern.

We also see the same thing in the comments section. We received about 35 pages of comments from our members on these specific challenges. Again, when we

identified members by trade, the ratios appear to be the top issue for them.

Mr. Rosario Marchese: Let me ask you quickly: How much money do your members contribute to training apprentices in certifiable trades? Do you know?

Mr. Plamen Petkov: In our last report—it's a nationwide report—we looked at training costs. Again, I would encourage you to read that report. There is plenty of information there, especially in our methodology notes, in terms of—

Mr. Rosario Marchese: My sense is they don't invest anything.

Mr. Plamen Petkov: Actually, they invest quite a lot. Our estimate is that the small business community in total, not just our members—the small business community in Canada—invests about \$18 billion a year in training, including informal and formal training.

Mr. Rosario Marchese: In the certifiable trades?

Mr. Plamen Petkov: The majority of the training that they provide is informal training.

The Chair (Mr. Lorenzo Berardinetti): We're going to have to move on now to the Liberal Party. Thank you. Mr. Flynn?

Mr. Kevin Daniel Flynn: Thank you, Mr. Chair. Two points I'd like to make, and then I think Mr. Moridi has a more specific question.

The Chair (Mr. Lorenzo Berardinetti): You have about two minutes.

Mr. Kevin Daniel Flynn: What I got from the presentation is that you believe that perhaps the interests of smaller employers could be represented if some allowance was made for their appointment to the appointments council.

Mr. Satinder Chera: Yes. I think that's one aspect, yes.

Mr. Kevin Daniel Flynn: Okay. My understanding is that the TSSA is not a self-regulating body. Do we share that opinion or not?

Mr. Satinder Chera: No. They are a self-regulating body.

Mr. Kevin Daniel Flynn: Okay. We need to discuss that further, because I don't think that's accurate. Mr. Moridi, if you'd like—

The Chair (Mr. Lorenzo Berardinetti): Okay, Mr. Moridi, go ahead.

Mr. Reza Moridi: Thank you, Mr. Chair, and thank you for your presentation. One of the concerns you raise is that in the proposed legislation there is no provision for the selection of the appointments council. Do you have any specific idea or specific recommendations on what should the criteria be for the appointment of members of that council?

Mr. Satinder Chera: Mr. Moridi, I think our—I'm going to answer that question. Let me just overall make this observation.

Again, our general experience with self-regulating bodies is that they tend to drown out the small business voice unless the majority is—unless we find there is a strong small business voice there. Generally their con-

cerns are punted aside. I think, again, wisely, your government recognized this fact in 2003, so that when you did bring in the Ontario waste authority, one of the things you made sure of in there, and clearly, was that there was de minimis for smaller firms. I think you certainly recognized that their voice might be drowned out. I think that has certainly been a firewall in many, many ways in terms of protecting our members.

I'm not sure, if there's a specific requirement in there, if that's going to make things better—again, based on our current experience, it hasn't been—until the government has actually walked in and made some very specific requirements that small businesses be excluded or that they have a particular voice at the table.

I don't know whether one or two voices on a board of 20 are going to make a difference. Our experience elsewhere—I can just go by what our experience elsewhere is—is not very positive with self-regulating industries. I thought it was quite informative, the exchange between Mr. Marchese and the ministry before, to his point, which was there is really not much in here where the government can say, "Look, we can pretty much guarantee that this will be the outcome." Really, they're leaving it in the hands of this body, which is going to be self-regulated. Given the current experience with other authorities where the government has had to step in, I think we're a little perplexed by the government's approach to this area.

The Chair (Mr. Lorenzo Berardinetti): Okay, thank you. That concludes the time. It's only fair to other presenters. Thank you for your presentation.

Mr. Satinder Chera: Thank you.

Mr. Plamen Petkov: Thank you.

INTERNATIONAL BROTHERHOOD OF BOILERMAKERS

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next deputation, which is the International Brotherhood of Boilermakers. Good morning and welcome. I have Mr. Ed Frerotte here, but if you could identify yourself for the purposes of Hansard; this is being recorded.

Mr. Ed Frerotte: My name is Ed Frerotte. I'm the apprenticeship and training coordinator with the International Brotherhood of Boilermakers, apprentice and training trust fund here in Ontario. That trust fund is made up of an equal number of union representatives and contractors from the Boilermaker Contractors' Association.

I want to thank you for allowing me to speak today. I won't be very long, but I do have a couple of points. First off, I'd like to say in general that we like the legislation, both the contractors and the union. There are going to be a couple of points I'd like to address on that, but it is a good bill, and we have participated throughout the program with the Tim Armstrong report and with Mr. Whitaker's.

I think one of the positives of this is that combining the ACA and the TQAA is going to benefit the government and the province both economically and administratively. We all know time is money and that once you combine the two and get rid of some of the duplicity, it should assist both sides, the public as well as the industry.

One of the main points for us, the boilermakers' apprentice and training trust fund, is that there finally be a prescribed process for compulsory certification. It states in there that the review panel will look at that once the trade boards move it up to the review panel. Boilermakers in particular have been advancing compulsory status for our trade for approximately 13 years, and we never really received an answer except to submit again, which we have done a couple of times. We think it's very important for the public and for our trade that the boilermakers become compulsory here in Ontario. We are compulsory in three other jurisdictions in Canada, and two others have applications going forward as well. At least, hopefully, we'd get an answer.

The other thing I would like to see changed or recommend as a change within the bill is that apprentices be included. I heard the presentation earlier on others, and I think that apprentices do need to be named within the legislation. I see that it could be done under the others, but they are the future of the trades, and in order to recruit for all trades, not just for our own trade, I think it's very important that apprentices get included in there.

I'd also like to see the trade boards increased. Right now, they're set at four members: two from employers and two from labour. To get a quorum as well as to represent each area of the province, I think that number is small. You'd need three of the four and with people scheduling—and my experience on the PAC; I sit on the Boilermaker PAC, construction boilermaker, and the welder/fabricator under the ACA, and in order to get a quorum—four is a very small number, and to represent the province equally from all areas, I also think that six to eight would be a much more manageable position and it would be easier for those boards to function.

Again, I think that for construction, one of the largest industries here in the province of Ontario, this legislation is good, but I do think that when the nominations come forward for the trade boards, for the governing body, construction has to be involved and the provincial building trades also should be involved when it comes to naming the labour portion of those trade boards. The evolution of the college of trades, the building trades: should be very much involved in that as well.

That's all I have for you this morning, Mr. Chairman. Thank you to the honourable committee for having me. If you have any questions, I'd be glad to answer them.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Yes, we have about two or three minutes per party. We'll start with the NDP, Mr. Marchese.

Mr. Rosario Marchese: Thank you, Mr. Frerotte. A couple of questions: The Ontario Federation of Labour and others say—I'm not sure you'd say the same—that

two thirds of Bill 183 is devoted to disciplinary procedures, while lacking the bylaws and regulations that could make the apprenticeship system better. Does that worry you as well?

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Mr. Ed Frerotte: No, sir. I don't see that in there. I do see that there are discipline procedures in there. There are disciplinary procedures in our apprenticeship ourselves, and there has to be. You have to have a governing body. Somebody has to make the rules and enforce those rules, so I don't see that as a problem, sir.

Mr. Rosario Marchese: No. I was just saying that they raised that as an issue, and a few other unions raised that, too. I personally believe there should be a fine balance, because I think there are very many legitimate complaints, and they have to be dealt with. On the other hand, there could be an exaggerated number of claims, and very few people will have resources to defend themselves. If that's the case, the question is, how do they deal with that?

Mr. Ed Frerotte: Well, I can only answer from our part of the equation, and that would be for us to have a union to look after them in that sense.

Mr. Rosario Marchese: And if they don't have a union?

Mr. Ed Frerotte: Well, then they'd have to go to people like you, to their—

Mr. Rosario Marchese: People like me?

Mr. Ed Frerotte: That's right.

Mr. Rosario Marchese: Like them. Like them. What do they do then?

Mr. Kevin Daniel Flynn: It's you that worries about it, Rosie.

Mr. Rosario Marchese: Because the problem is over there and over here, not with us—including some of my former friends on the other side.

Mr. Kevin Daniel Flynn: I'm still your friend.

Mr. Jeff Leal: We're all friends.

Mr. Rosario Marchese: I don't have too many friends on the other side.

Interjections.

Mr. Rosario Marchese: The other quick question is, the Ontario Federation of Labour raises some interesting questions—

Interjections.

Mr. Rosario Marchese: Hold on; I've got some questions.

They say we should separate the real trades, where it takes time in terms of apprenticing and becoming a journeyman, where it takes two to five years—it's a long process—versus some other areas which could be classified as occupations, where you do some training but it's not very long, and they're very different. I happen to agree with that, but in this particular instance, they're all lumped in together. Do you have any concerns about that?

Mr. Ed Frerotte: I don't disagree with that at all, to tell you the truth. What you want to do is differentiate

between skill sets or occupations and trades, so I do not disagree with that. I think it's a very good point.

The boilermakers apprenticeship, for instance, is 6,600 hours in-base. That's four years that someone gives up. We have a very high completion rate because we do great training. We market ourselves pretty well, but we could still use more. I think the college of trades will help us there, but I don't disagree with that.

Mr. Rosario Marchese: Yes, except that in the college of trades, there is no distinguishment between the two. In fact, occupations and trades are the same.

They have a concern, which I have expressed as well in the Legislature, that we are fragmenting the trades into different little components, and they're called trades. That worries me, and that's not taken care of in this bill; in fact, it's continued. And if it worries you, do you have a comment to the Liberal members about how they might fix that?

Mr. Ed Frerotte: No, I don't have a comment on how they might fix it. I do agree that the trades—it should be differentiated between an apprenticeable trade and a skill set or an occupation, but I don't have an answer on how you can fix that.

The Chair (Mr. Lorenzo Berardinetti): Okay, let's move on, then, because of our time. Thank you. Mr. Flynn?

Mr. Kevin Daniel Flynn: Thank you for the presentation today.

Mr. Ed Frerotte: You're welcome.

Mr. Kevin Daniel Flynn: I really enjoyed it. I've visited some of your training facilities, and they are first-class. You guys do an excellent—

Mr. Ed Frerotte: Thank you.

Mr. Kevin Daniel Flynn: You expressed frustration in the past with the processes that are used to certify a compulsory trade. There doesn't seem to be a set way of doing it. It seems to have been sort of hit and miss in the past, I think is what you were saying. Do you see the college of trades as providing a formal route for that to happen?

Mr. Ed Frerotte: I do.

Mr. Kevin Daniel Flynn: And do you think that's a positive thing for business and for labour?

Mr. Ed Frerotte: I do.

Mr. Kevin Daniel Flynn: Okay, so it's going to set some ground rules and you can move forward from there.

There was talk earlier about the fees and how you ensure that the fees don't become onerous for business or they don't become onerous for the individuals who are also members. The implementation adviser has recommended an initial fee of \$100 per year. I think, from what we heard today from Patti, that would be exclusive of the fee that's already paid to the government, so you would subtract that fee that's paid to the government. The implementation adviser is saying it should be \$100 a year for a journeyperson and \$100 a year for an employer as a starting point.

For the benefits that are provided by the college of trades, do you think that outweighs that \$100 fee? Do you think that's good value?

Mr. Ed Frerotte: Well, to begin with, the fees the government gets now are only at the inception—when you pay to take your red seal, as far as I know. Then you have a fee within the union structure.

As far as the future fees, our employees on the contractor side, our members on the union side, will not receive it well initially, but if we can move forward and clean up some of the problems that have been in the past through the MTCU—MTCU has done a wonderful job for us, but as far as the compulsory certification, it has been a long process—the value would be there. Our members are paid very well for the hard job that they do, so I don't see it as a humongous obstacle, but there will be some resistance.

Mr. Kevin Daniel Flynn: It breaks down to about \$2 a week. I think when you look at it from that perspective, for the advantages that it may provide, it looks like pretty good value to me.

Reza, did you have a question?

The Chair (Mr. Lorenzo Berardinetti): We've got one more minute; then we have to move on because we have a question period coming up. Go ahead, Mr. Moridi.

Mr. Reza Moridi: Thank you for the presentation. In your presentation, you mentioned that the trades and apprentices should be mentioned in the proposed legislation, where they haven't been. I wonder if you would elaborate a little bit more on that. In my view, if this happens, this might limit the college in the future. If a trade becomes apprenticeable, then it will have to go through the legislation process, which will be a very lengthy process, as you know very well, but if you leave it for the college, then of course the college will be able to do this through regulations or an internal process. Would you please elaborate on that?

Mr. Ed Frerotte: Currently, it says that journey-persons and employers of apprentices or journey-persons—that's who's named in the legislation. In the first presentation, which I hadn't—it wasn't part of my presentation—it said that others could remain. You can add apprentices in. But apprentices should be named, I think, within the legislation itself.

The Chair (Mr. Lorenzo Berardinetti): We'll move to the Conservative Party. Any questions? Mr. Bailey.

Mr. Robert Bailey: Thank you for your presentation today, Mr. Frerotte. I come from Sarnia-Lambton, so I'm quite familiar with the boilermakers trade, with the pipefitters and the carpenters and all that. I had the opportunity and privilege to work in industry before that and to work closely with many of your members, as well as the other members, and I know the training that they receive.

Sarnia-Lambton—I'll put a plug in here—has some of the best tradespeople. Approximately 5,000 who are there work and build projects for the world and for the province of Ontario, and I know the training and everything that they do.

In my case, we have Lambton College in Sarnia that would, I assume, be working hand in hand with your membership and with the other trades. Is that how you

see this evolving with this new college of trades? How closely would they be working together, and how would it change apprenticeship as it is today?

Mr. Ed Frerotte: Currently, our TDA is Humber College. We're a provincial local, so everything comes into Humber. I don't see it changing much. I see the same relationship with the TDAs, with the colleges, that we have currently. We have a very good relationship with Humber, and the other trades have their relationships with their colleges as well. I don't see it as a problem whatsoever.

Mr. Robert Bailey: Do I have a little time left, Chair?

The Chair (Mr. Lorenzo Berardinetti): A little bit.

Mr. Robert Bailey: Can you elaborate a little bit more on how the membership—I heard what the government side said—because I think that'll be a little bit of pushback. I know in our area, I've heard already about the additional fee for the membership for the licensing.

Mr. Ed Frerotte: If the college of trades pans out as it's supposed to and streamlines some of the problems that we've had in the past, not just with compulsory certification but with promoting the trades, there will be value in there. Of course there will always be pushback, out of fear, but I believe the value is there and that it will be within the system.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation.

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CANADIAN UNION OF PUBLIC EMPLOYEES

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our last morning presentation, which is the Canadian Union of Public Employees. I have Mr. Fred Hahn listed here, but if you could just indicate your names and titles for the purposes of Hansard, I'd appreciate it.

Mr. Fred Hahn: Good morning. My name is Fred Hahn, and I am the secretary-treasurer of CUPE, the Canadian Union of Public Employees, in Ontario. With me is Shelly Gordon; she's a researcher from our union.

CUPE is the largest union in the province, and we represent 240,000 workers. They can be found primarily in five major sectors: health care, school boards, social service agencies, universities and municipalities. Among our membership in Ontario, we represent thousands of skilled trades members, people in the broader public sector in the authentic trades, as well as tens of thousands of other certified occupations regulated under the Trades Qualification and Apprenticeship Act and the Apprenticeship and Certification Act.

As a union, we welcomed the public discussions that started with Tim Armstrong's report on compulsory trades. We view apprenticeship and on-the-job training connected specifically with education offered through public schools and colleges as a key component to a comprehensive labour force strategy. Trades jobs are good jobs, and we know that we need to invest in training and make investments in good jobs in the province,

particularly now and particularly when so many good manufacturing jobs have been lost.

As a union, we believe it's vital to expand skilled trades and apprenticeships and training initiatives in the public sector as well as in the private sector, and this must be part of a comprehensive economic plan for the province. Almost a year ago, we expressed our serious concerns that the only policy piece brought forward from the Armstrong report was the introduction of a college of trades.

Like the OFL, the Ontario Federation of Labour, and the rest of the labour movement, we agreed that the current situation with respect to trades in Ontario was unacceptable and needed to be overhauled, but we pointed out that taking a narrow approach to compulsory certification without addressing the overall system-wide deficiencies would only continue to handicap long-term skills development in Ontario. We said that a regulatory college is not the way to fix the apprenticeship system.

CUPE Ontario has been consistent in our opposition to the introduction of regulatory colleges for our members who work in social services, in child care and for paramedics, and we think that Bill 183 substantiates our worries to this approach as well.

Our union believes that Bill 183, the Ontario College of Trades and Apprenticeship Act, 2009, won't meet the needs of workers in the trades or the needs of employers in the province of Ontario, particularly in the broader public sector. Like the Ontario Federation of Labour, we think the proposed act will create a model that's too complicated and won't solve the problems of implementing decisions on trades and apprenticeships. It will be too oriented on discipline of workers to be truly effective.

The structures envisioned in Bill 183 will be top-heavy and top-down. They won't be accountable and they will become immediately mired, we think, in jurisdictional disputes and bogged down in bureaucracy. Bill 183 doesn't establish an effective governance structure that can promote trades and apprenticeships in Ontario.

When Kevin Whitaker was asked by the Minister of Training, Colleges and Universities to figure out how to implement a college of trades, he attended CUPE Ontario's first-ever trades conference last fall. After hearing Mr. Whitaker's recommendations, over 200 of our members, representing dozens of local unions from across the province and from all sectors, confirmed our opposition to a regulatory college approach.

CUPE members who work in the trades keep believing that the government of Ontario needs to take action on provincial oversight and governance of trades and apprenticeships. Our members recommended that the government needs to make sure that it provides public funding for high-quality expanded apprenticeship opportunities, make sure that public money made available to employers is actually used on creating high-quality apprenticeship and training programs, put some measures in place with targets and timelines to increase the participation of women and other equality-seeking groups in

accessing apprenticeships to make sure that all trades and apprenticeships come under a single act, and promote trades through advertising initiatives and other ways like reintroducing shop classes in schools.

But we also said that any governing body had to have some good principles, things like:

- being jointly governed by the unions who represent those workers;

- making sure that it has a common apprenticeship for each trade and common enforcement in apprenticeships for each trade;

- stopping the deskilling and fragmentation of trades work;

- raising the profiles of trades work;

- expanding the number of compulsory trades;

- advancing equality-seeking groups' participation in trades and apprenticeships to be truly funded by government and not by membership fees; and

- operating in an open and transparent way.

We're concerned that Bill 183 doesn't solve the problems that are faced by workers in the trades and doesn't address these issues that our members urgently think need to be addressed by the government of Ontario.

Those are general points we wanted to make about the bill, and there are other labour organizations which will make them as well, but we wanted to call your attention in particular to the work that our members do in what's often called the MUSH sector—municipalities, universities, school boards, hospitals—and also in homes for the aged and other social service agencies. There are some real differences between the work that our members do in the MUSH sector and with construction in other parts of the private sector.

We're concerned that maybe the Ministry of Training, Colleges and Universities doesn't realize that Bill 183, covering all trades and occupations, will sweep thousands and thousands of our members under this new college. We canvassed employers and associations in municipalities, hospitals and school boards and found them to be unaware of the potential impacts of Bill 183 in broader public sector workplaces.

I want to just spend a minute giving you some detailed examples about how CUPE members in the MUSH sector and in social services could be affected, because we don't think people have really turned their minds to it.

First, I want to give you a list of compulsory trades currently covered under the TQAA in school boards, hospitals, universities and municipalities. They all employ electricians, plumbers, steamfitters and refrigeration mechanics. In the list of voluntary trades under the TQAA, there are CUPE members who are masons, tile-setters, carpenters, architectural glass and metal technicians, and painters. Now, in general, contractors are employed from the trades for the purposes of construction in the broader public sector, but institutions themselves employ people with the same qualifications for ongoing maintenance work.

CUPE members in the restricted trades under the ACA include automotive service technicians, even the occas-

ional hairstylist in the health care sector. Thousands more CUPE members work in unrestricted trades under the ACA, and some of those occupations that are common across the MUSH sector are arborists and horticultural technicians, cooks and bakers, draftspersons, machinists, millwrights, heavy equipment operators, automotive technicians of all kinds, locksmiths, welders and child and youth workers, but we also have 25,000 members who are educational assistants, we have 6,000 members who are early childhood educators and we have 6,000 members who are developmental service workers. I just want to note that the developmental service worker piece was inadvertently left out of the written part of our presentation, but they're an important part of the members we represent.

In addition to all those job titles, it's important for us to note that in many smaller hospitals, municipalities and school boards, there are CUPE members who have been multi-skilled. They take on more than one trade. They're called general tradespeople, or a contractor/handyperson or a mechanic/gardener and so on. It's because in many of these workplaces, there aren't enough resources to hire individual people to cover individual bits, and so people have been multi-skilled and trades jobs have been created to cover several functions.

CUPE locals and employers in the MUSH sector have established apprenticeship programs for cooks, millwrights, auto mechanics, elevator mechanics, electricians—so I'm just trying to reiterate my point that Bill 183 will sweep thousands and thousands of broader public sector employees represented by the Canadian Union of Public Employees under the jurisdiction of this college and, in fact, we don't think that the impact of that has been adequately considered or understood.

I want to give you a specific example. The ACA covers early childhood educators. They already have a regulatory college imposed upon them. It also covers educational assistants. As Ontario moves towards full-day learning for three- to five-year-olds, there are going to be ongoing interministerial discussions, public consultations about how to integrate the staff of community-based child care centres and those in the school system into a new system. These discussions include questions of qualifications, upgrading, a transition phase and dedicated funding for training. All of these issues could be affected by the regulations of programs established under Bill 183. We recommend that those issues remain in the purview of their respective ministries and be excluded from the scope of any new regulatory trade body.

We also want to reiterate that in part of our submission made to Charles Pascal on implementing this new system of early learning, we said that the government has to include adequate funding to make sure that there's professional development in the child care workforce that's publicly funded and delivered. In any case, it doesn't make any sense for early childhood educators to be covered under two regulatory colleges, so specifically, we would recommend that they be excluded from the college of trades.

Other provincial ministries also have discussions on on-the-job training, recognition of skills acquisition, even setting up pilot projects for other occupations now listed under the ACA, like child and youth workers and developmental service workers, so we want to make sure that funds for training and apprenticeship programs of these types are not tied to membership in a regulatory college of any kind.

We've consistently pointed out that regulatory colleges for broader public sector employees just don't make sense. The employees in the broader public sector are directed by their employers and subject to the discipline of their employers. They're subject to the policies of those employers and legislation that covers their work. Giving another body authority to determine qualifications, impose job content, investigate work performance and practice, and impose discipline on both the employer and the employee is not only unnecessary, but it will interfere with the regular operations and labour relations in municipalities, school boards, hospitals, universities and other health and social service agencies. It'll be a big problem for employers and unions in the MUSH and social services sector if regulations developed under Bill 183 change the qualifications or job content of any of those jobs. It will cause big problems if any provisions of Bill 183 or regulations established under it contradict collective agreements negotiated between CUPE and the employers. We recommend that if that happens, the collective agreements and the authority of the Ontario Labour Relations Act need to prevail.

A regulatory college will cost money, not just for individuals but for employers and ultimately for the unions who defend them. We don't know what the fee will be either for individuals or employers, but we do know that CUPE will begin to bargain that employers cover the costs for their employees to attend a college.

There will be legal costs for individuals, unions and employers for enforcement and disciplinary procedures under a college. These may be much more substantial than the costs for employers to actually belong. CUPE will bargain to have employers cover the costs for their employees involved in these proceedings as long as they're acting under the direction of their employer.

We can be confident that employers in the MUSH sector and other health and social service sectors will ultimately be looking to government to help cover these increased costs for them. We're concerned that Bill 183 will end up creating disincentives for the employment of trades and apprenticeships in the municipalities, universities, social services, school boards and the health care sector across the province. We're concerned that employers will be encouraged to contract out this trades work to avoid the expense and to avoid being subject to a regulation of a college. We think this runs counter to the objectives that we all shared with Mr. Armstrong in setting out to consider how to strengthen trades and apprenticeships in Ontario.

We think these issues need to be worked out in discussions with CUPE and broader sector employers as

well, so that Bill 183 doesn't run counter to its original intent but also doesn't end up reducing the number of tradespeople and apprenticeship programs in the broader public sector. And given the huge impact that Bill 183 will have on CUPE members, we believe that CUPE Ontario must have representation on any new structure put in place to oversee apprenticeships and trades and that those representatives must be named through the Ontario Federation of Labour in concert with us. Employers in the MUSH and social services sector, we think, also need to be included.

We think that the Ministry of Training, Colleges and Universities hasn't adequately considered the impact of Bill 183 on employees or employers and that—

The Chair (Mr. Lorenzo Berardinetti): I'm sorry to interrupt. You've got about a minute and a half left.

Mr. Fred Hahn: Perfect. I'm just about done. Lots to cover.

We ask the government to undertake considerably more consultation and consideration in order to proceed with this new governance structure on programs for trades and apprenticeships in Ontario that meet the original objectives and don't create more problems than they solve. This is our big concern.

Thank you for your time and attention.

The Chair (Mr. Lorenzo Berardinetti): Okay, thank you. That doesn't leave much time for questions. I want to thank you for your presentation. If you want to stay, you're welcome to stay this afternoon and continue on. This committee, then, will stand recessed until 2 o'clock this afternoon.

The committee recessed from 1023 to 1403.

COLLEGES ONTARIO

The Chair (Mr. Lorenzo Berardinetti): I'll call the meeting back to order and welcome everyone back to the Standing Committee on Justice Policy, on Bill 183, Ontario College of Trades and Apprenticeship Act, 2009.

Our first deputation this afternoon is Colleges Ontario. If you would like to come forward and just introduce yourself so that Hansard can record who you are. I want to welcome you here and let you know that we have a 15-minute limit for speaking. Any time you don't use up during that 15 minutes, we will ask questions.

Ms. Linda Franklin: Thanks very much. I'm Linda Franklin, president and CEO of Colleges Ontario.

Mr. Bill Summers: Bill Summers, vice-president, research and policy, Colleges Ontario.

Ms. Linda Franklin: Thank you very much, folks, for the opportunity to come here today and talk about the proposed college of trades/ordre des métiers.

As members of this committee will know, some individual colleges are also appearing before you today to speak in greater detail about some of the elements in the bill that they believe require further consideration.

The recommendations we are discussing today are shared and supported by the 24 publicly funded colleges right across Ontario.

In my presentation today, I'd like to provide a bit of an overview of the college positions and focus on some of the key issues that we think the committee should be thinking about in its deliberations about this act.

By way of background, I should tell you that Colleges Ontario is the advocacy body for the 24 colleges of applied arts and technology, and two of those, of course, are French-language colleges. Our focus is advocating for public policy changes that will help improve the quality of education and training in Ontario.

We represent all 24 publicly funded colleges. They have more than 100 campuses in 200 communities across the province, so we're in every region of the province. We serve on a yearly basis almost half a million students between full- and part-time attendance.

Many of you, I know, will have colleges or campuses in your own ridings, so you'll have a very keen sense of the importance of the programming and the colleges, both to your students and the economic development of your regions.

We're also, as some of you will know, key players in the apprenticeship system. We deliver about 85% of the in-school training for apprentices in Ontario. To us, that makes perfect sense because I think it's important to remember that apprenticeship is one of the pillars of higher education. It stands along with university education and other college training, and I think it's really critical that we not forget that as we're thinking about this act and its implications for apprenticeship.

Colleges are also critical to the apprenticeship system today and in the future, because we attract students from a wide range of backgrounds and all walks of life, and that isn't always easy in apprenticeship programs, as you know. Those who would normally not go to post-secondary education often come to our institutions, where they have the support they need to succeed.

We all know, I think, from studies that have been done over the last little while, that Ontario needs more people with post-secondary education credentials in the coming years. You'll notice just in the last week Barack Obama putting a major emphasis on community colleges and providing \$12 billion over the next 10 years to support the development of more skilled workers in the United States. They're playing catch-up with the Ontario system right now, in our system of colleges.

The Canadian Federation of Independent Business has said that businesses facing labour shortages need college graduates over university graduates in the coming years by a six-to-one ratio. I think our enrolment over the past two or three years—that's trending up at a rate of 6% and 7%—testifies to this need and students' recognition of the value of that credential. So, if there aren't enough skilled workers, companies won't invest in Ontario, new jobs won't be created, and we won't come out with the kind of robust economic recovery we're expecting.

I know that it seems strange to talk about labour shortages in today's economic climate, but the reality is that we'll be faced with some fairly significant labour shortages in the not-too-distant future, and particularly in

the skilled trades that's going to be true, where many skilled tradespeople are nearing retirement. There are only about 15% of those folks currently in their 30s and 40s, and we are not attracting young people to the trades in the kinds of numbers we need to.

As many of you will know, the Conference Board of Canada, in a study a couple of years ago, estimated that we will be short 360,000 skilled workers by 2025 and over half a million a few years later. A disproportionate amount of that shortage is in the skilled trades. So it's really critical that in the years ahead we get more women, more under-represented groups and more groups who traditionally don't see the trades as a viable option for them to consider and choose a skilled trade for their careers.

We have over 40 years of exceptional experience in delivering quality trades training, and we're very proud of our role in supporting apprenticeship.

The public colleges view the college of trades in this regard as an important strategy to advance the skilled trades in Ontario. We're supportive of this act, and we believe it will contribute to the modernization of the apprenticeship system.

We support the 12 key organizing principles of the college of trades and the 19 recommendations on its governance framework, scope and mandate. We also believe that the responsibility given to the college of trades to encourage women, aboriginal people and people from under-represented groups to participate in apprenticeship is a very welcome aspect of this legislation, and it's a piece of work that really needs done.

This is an area where colleges have actually seen some success over the past few years, and we're happy to help with our expertise as well, as the college of trades moves in that direction.

We're particularly pleased to hear that the college will have a chief diversity officer, because we think that's going to be critical in moving this agenda forward. We expect that it will also be designated an agency under the French Language Services Act, which again we think is a good thing.

Promotion of the trades is another key responsibility identified for the college of trades. Again, we strongly endorse that, because developing a significant pool of skilled tradespeople is a necessity, and today, too many people don't see this as a career option, nor do their parents. We think we have a lot of work to do to help parents and students understand the value of a career in the skilled trades.

During economic slowdowns, there's often a decline in the number of apprenticeship registrations, and this economic slowdown hasn't been any exception. Participating employers often can't hire and retain apprentices due to financial constraints, but when the economy recovers, they are desperately in demand.

One of the roles of the public colleges over the last couple of years has been to work with employers closely and figure out how to bridge that gap. So, with the government and employers, we've been able to encourage

more on-the-job apprenticeships, but also we've been able to deliver longer in-class components of apprenticeship so that we don't lose students to an inability to find apprenticeship spots during a slowdown.

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Colleges support the proposed legislation in many ways, and we call upon the government to fund colleges to work with employers to participate more fully in the apprenticeship system in greater numbers in the future.

Prior to outlining our specific recommendations for the legislation, we'd like to talk briefly about three principles that we think need to guide your review of this act in general.

First, we think it's really important, as I mentioned, that apprenticeship training be viewed by students, families, government and the public as higher education that is just as attractive and viable as a diploma or degree education. I often think we should ask ourselves, when we make changes in the apprenticeship system, "Would we do this to the university system? Is this the kind of change that we think would be appropriate in a university or college setting?" And if it's not, I think we have to think twice about what we do and change in the apprenticeship system if we believe it's truly a pillar of higher education.

Ontario colleges have been working to ensure that apprenticeship programs are viewed that way and not as isolated training programs or something that stands alone and apart from post-secondary education. It needs to be considered the third pillar of post-secondary enterprise and, in considering the relative roles of the proposed college of trades, the ministry and the colleges, we need to ensure that we keep building apprenticeship training as a central part of our post-secondary system.

Secondly, we think there has to be a strong connection between the regulatory body and the education community. Without that strong connection, we think there are real risks that the training and education of the trades will not be effectively coordinated with the regulatory function. Opportunities to address major issues related to attracting students to the trade could be lost because of the absence of that connection.

With a strong connection, however, the best expertise available can be brought to bear to support the development of carefully considered policy options related to the occupations that are regulated by the college of trades.

As such, the policy-setting function of the college of trades needs broad and diverse input from all stakeholders at all times. Currently, we don't think the legislation provides for that connection between educators and the college of trades, and that's one of the things we'd like to address.

We think it's important for Ontario's colleges to be given a formal role in the college of trades to ensure that the responsiveness of apprenticeship training to the demands of employers and the provincial economy remains intact.

We have a strong track record of working effectively with all sectors of industry to establish training programs

that meet employers' needs, and we think that if the college of trades is isolated from the education sector and their expertise, we risk losing the progress we've made in creating an apprenticeship system that is an integral part of post-secondary education. That, in our view, contradicts the aims and goals of Reaching Higher and its goal particularly to increase apprenticeship over the years.

Finally, we think it should be recognized that the establishment of the college of trades is an ambitious initiative, no question about it, and it will have a long-term impact on the growth of both compulsory and non-compulsory trades.

The Canadian Apprenticeship Forum has reported that only one sixth of employers with tradespeople are now involved in apprenticeship, yet employer participation in the apprenticeship system is fundamental to its growth. So we must ensure that the establishment and funding of the college of trades does not negatively impact on employer participation in apprenticeship training.

As advocates and promoters of the trades on an ongoing basis, our colleges want to ensure that the growth of apprenticeship is not inhibited.

So with that background, we have three specific recommendations we'd like to highlight for you.

The governance structure as set out in Bill 183 is of great concern to us. The legislation, we believe, must ensure that a representative of Ontario's college system is a member of the board, because Ontario's colleges are key stakeholders that play a vital role in sustainability, expansion and growth of the trades. This recommendation is supported by the Ontario Chamber of Commerce and the Ontario General Contractors Association.

Clive Thurston, president of the Ontario General Contractors Association, wrote: "We are supportive of Ontario colleges having a seat on the board of governors. As you know, the colleges deliver a significant portion of in-school training, and with this knowledge and expertise, they have a broader perspective and understanding of what's changing in the workplace."

We're pleased to have the support of these associations, and we think it reflects on an employer's view that the colleges have a place at the table that is integral to the future of the college of trades.

The governing authority of the board, we think, would be more effective with the inclusion of a representative of higher education, particularly those that are the primary delivery agents for apprenticeship and in-school education.

Inclusion of a representative from the public colleges would also ensure strong and effective linkages between the college of trades and the college system generally. So we would urge the government to designate one of the five public appointments to the board of governors as a college system seat. Many other regulatory bodies have followed this model. It's a long-standing model. It includes the Professional Engineers Ontario, the College of Physicians and Surgeons, the Royal College of Dental Surgeons, the Institute of Chartered Accountants of Ontario and the Ontario Association of Certified Engin-

earing Technicians and Technologists. We think there are lots of precedents for this, and we think it's an important change.

Our second recommendation involves curriculum. The colleges are pleased that the Ministry of Training, Colleges and Universities will keep an active role in the apprenticeship system, specifically through retaining the authority to designate training delivery agents and by continuing to provide funding for the in-school portion of apprenticeship training. We recognize that the college of trades has to be industry driven, so clearly, it should hold responsibility for setting the occupational standards for the trades. But the educational components of the proposed mandate, namely the design of curriculum, we think have to reside with MTCU and, through the ministry, with the organizations that actually design and deliver apprenticeship training today.

Ontario's colleges need to maintain a significant role in the design of curriculum. It would be based obviously on the occupational standards set by the college of trades. But we have expertise in curriculum development and outcomes and also in assessment and specialized programming to help foreign-trained workers and under-represented groups overcome barriers to participating in the trades.

Right now the proposed college—

The Chair (Mr. Lorenzo Berardinetti): Sorry to interrupt. There's about one minute left in your time. I just want to make sure you get your key points out in the last minute.

Ms. Linda Franklin: No problem. Industry and employee representatives are experts in the trade sector but not in curriculum development, and we think this is some place that it's clearly important that colleges be involved.

Finally, we'd like to chat for a second about college of trades membership fees. We believe that publicly funded organizations, including educational organizations, should be exempt from membership fees, particularly if they're required to pay fees for every trade they employ. This is going to be staggeringly expensive for the college system because we employ vast numbers of tradespeople in teaching our classes. I don't think it's something that was considered by the legislation; we believe it should be.

Mr. Chair, those are our remarks, and thank you for alerting me to the time challenge.

The Chair (Mr. Lorenzo Berardinetti): You just fit in exactly 15 minutes. Thank you very much for your presentation.

LAURA PARSONS

ZAID MOUHOU

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next deputation. We have scheduled for a 2:15 deputation Laura Parsons and Zaid Mouhou. If you want to just have a seat and identify yourselves for the sake of Hansard. Again, you have 15 minutes; any time you

don't use will be apportioned amongst the three parties here for questions. Welcome.

Ms. Laura Parsons: Hello. My name is Laura Parsons.

Mr. Zaid Mouhou: And I'm Zaid Mouhou.

Ms. Laura Parsons: Honourable members, we'd like to thank you for taking the time to hear us today. As we said, I'm Laura Parsons. This is Zaid Mouhou. We're both residents of the city of Toronto. We've come here privately, not on behalf of anybody but ourselves. We've brought ourselves here today primarily to address you and to share some personal trials that we've had in navigating the apprenticeship system. Our hope in this is that the justice policy committee, in looking at revamping the laws relating to apprenticeship training, will hear and consider seriously the perspective of an aspiring apprentice.

Mr. Zaid Mouhou: I am Zaid Mouhou, again, and I'm originally from Morocco. I moved to Canada in late 2005, and since then I have been looking at how to become a plumber's apprentice. Since I moved here from a small village in the desert where I didn't have the benefit of basic public education, I enrolled in English classes. After successful completion, I started my general education at the City Adult Learning Centre. This is where I heard more about the opportunities available to people wanting to start a career in the trades. I was excited to hear from Canadians that a career in plumbing is a good one, that there is a shortage of skilled tradespeople and that I would surely get an apprenticeship if I took the initiative to find an employer.

After finishing my high school equivalency, I worked for a year. At the same time, I looked for employers willing to take a first-year apprentice in plumbing. Since I'm fairly new to Canada I don't know any plumbers personally, so I simply called every plumber in the phone book. After not getting a very good response—most of them wanted to hire third- or fourth-year apprentices—I decided I should look into a training program of some kind. So last fall I enrolled in a year-long program at George Brown College, construction trades techniques, where I learned seven trades, one of which was plumbing.

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In this course, I discovered that not only do I like plumbing, but I'm also good at it. I had a great reference from my instructor, but unfortunately he could not hire me because he already had so many apprentices. All of his friends' plumbing companies also have a restriction on the numbers of apprentices they can hire, so there was no one for him to refer me to.

I took it upon myself to look once again for apprenticeships, so I found and applied to the joint apprenticeship training program at the plumbing union, Local 46, in the spring. I heard it was a very competitive intake process, so I made sure that I had a good application with excellent references and I studied my notes from school. I was very happy to be asked back for a testing day, but imagine my surprise when I found out that there were

over 1,000 applications for the program. The mechanical aptitude test was challenging and, to be honest, I think a lot of the difficulty comes because my first language isn't English, not because I cannot do the work or don't possess the skills necessary to be a plumber.

I was very disappointed that day I received a letter letting me know that I wasn't accepted into a program. I couldn't help but wonder if I had checked the box on the application form that asked me if I knew anyone in the union, it would make a difference.

I'm still looking for an apprenticeship. I have been in contact with dozens of employers, all of whom appear either unwilling to hire a first-year apprentice or unable to because they are prohibited by legislation to have more than a certain number. This has been a very frustrating journey over the past few years, and hopefully, with the passing of new legislation, there will become room for more first-year apprentices in the system.

Ms. Laura Parsons: In our experience of trying to find Zaid an apprenticeship, some of the most frustrating things have been the lack of information, or simply contradictory information, out there about apprenticeships.

We've looked for almost four years since he arrived in Canada in November 2005 and we've only recently found out that, although he's over the stated age limit for the program, he actually does qualify for Job Connect because he wants to do an apprenticeship. There seems to be an unwritten rule that you can, if you're looking for an apprenticeship. So there are opportunities there, but people aren't telling us about them. We've been to employment centres both here in Toronto and in Guelph, where we first lived when he first came to Canada, and only the other week did we find out that piece of information.

We're here today because when I was speaking to the apprenticeship office downtown, they told me about this committee meeting. The woman there encouraged us and suggested that we come and talk to you and share our experiences as maybe they're not ones that you've heard. According to her, they haven't registered a new apprentice in either plumbing or HVAC in ages, and she couldn't remember the last time she had done so. It seems to me that perhaps there are not enough incentives to hire first-year apprentices because there's simply a lack of positions available.

Also, the reluctance of employers to take on someone new is problematic. The fact that they're willing to take on an apprentice who has already trained under somebody else for several years, who has put in a significant amount of resources into that person, and then they're willing to take them from another company, seems to be problematic, in my mind. Why would they bother to invest the time and training in the first years for someone if they can just grab somebody without having to bring anyone new up to speed?

Another issue that Zaid addressed briefly in his remarks was about how the union training intake is a question of who you know. In answering a question like,

"Do you know anyone in the union?" on the application form, one can only wonder how a yes or no answer will be interpreted and used to accept them into the program. Did the fact that Zaid didn't know a plumber already in the union work against him? We'll never know, but it hardly seems like a good way to find a capable apprentice.

A final barrier we'd like to highlight for you is the ratio of journeymen to apprentices. This is also, apparently, a big obstacle for employers in taking on new apprentices. Zaid has spoken with employer upon employer who would love to take on apprentices. They have enough work for them to learn from; however, their hands are tied and they're unable to take more on because they've maxed out the number of apprentices they're allowed to take on.

Hearing the last speaker talk, it seemed to me that she was saying there is a skills shortage—she's asserting that—from the colleges. It begs the question, in my mind, of what the problem is. If these numbers were adjusted, perhaps there would be more spaces for willing, capable workers like Zaid to start their career in the trades. Once he gets into the system, I am confident that he'll excel, but it's the getting in part that's been the problem for us.

Do you have any questions?

The Chair (Mr. Lorenzo Berardinetti): Thank you very much. We have about two minutes per party. We'll start with Mr. Bailey.

Mr. Robert Bailey: Thank you for your presentation today. And that was a couple of the questions I had about the ratio issue; I'm glad you addressed them right at the end. It's something myself and our party have been raising, along with others, for a long time, that this ratio issue is a restriction. We've got another bill going through the House right now about labour mobility, and if it passes the way it's written right now, there'll be people who will be able to come into Ontario who train one to one in other provinces, but yet in this province there are three-to-one ratios and all kinds of numerical concoctions.

Anyway, you think that an improvement in this province would be, when we're looking at this, to impress upon the ministry and the colleges to look at this ratio issue?

Ms. Laura Parsons: I think so. Actually, we don't even know what the ratios are. We've talked to different people, and he's heard different things from different people, so hopefully you guys know what the numbers are for the ratios. But from what we're hearing, if the problem is that they want to take on more but their hands are tied with how many they're allowed, they're apparently willing and able to do it, from what they're saying, but they're not permitted.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Marchese, do you have any questions?

Mr. Rosario Marchese: Yes. The ratios vary from industry to industry, and maybe the government can provide more information with respect to what they think the college is going to do, but the college is going to be

reviewing those ratios. Some of us defend the ratios and some of us believe that's not the real problem, although that's what the Tories say. "This is the problem, and if we solve that one, then we'll have more and more." I'm not quite sure that's the real and only serious problem we face.

But I want to ask you: You haven't read the bill, have you?

Ms. Laura Parsons: No. I've glanced over it. We got told about this last week, so we sort of—

Mr. Rosario Marchese: And you said that when you went to the college, there were another 1,000 applications. You weren't the only one, obviously; there were 1,000 people applying for the same job.

Mr. Zaid Mouhou: At the union.

Ms. Laura Parsons: At the union local apprenticeship training program, yes.

Mr. Rosario Marchese: Right. Did you have a chance to talk to any of the unions in terms of this particular problem to see how they deal with that or what they say?

Mr. Zaid Mouhou: No.

Mr. Rosario Marchese: Okay. Maybe we'll get some of the unions to talk about some of these when they come here to see what their response might be to that.

Mr. Zaid Mouhou: Okay.

Ms. Laura Parsons: That would be great.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move over to the Liberal party. Mr. Flynn?

Mr. Kevin Daniel Flynn: Thank you for coming today and thank you for telling your story. Interestingly enough, my dad was a long-term member of Local 46 and I couldn't get in either. I had to become a politician.

Interjection.

Mr. Kevin Daniel Flynn: Two things that are included in the proposed bill that's before us: You've highlighted the need for change in the ratios perhaps or for a way to examine those ratios, and what's included in the bill is that, as a first step, the college is being asked to review the ratios as something that it does very early in its mandate—not just to review them and leave them alone, but to review them and then to review them again on a periodic basis every four years. So that's something I'd like your opinion on, if you think that's a good idea, obviously.

The previous speaker highlighted something else that was in the bill, and that was the installation of a chief diversity officer who makes sure that people from other countries, from other cultures, from other faiths, whatever, receive a fair shot or the same type of shot that everybody else in the country receives at this type of opportunity. I'd just like your opinions on those two points.

Ms. Laura Parsons: That second point, I think, tweaked in my mind as well. When Zaid came back from that testing day, his first thought was that, very clearly, if he'd been educated in this country and spoke the language as fluently, perhaps, or just in terms of the lingo—it's not that he didn't understand the questions or he

doesn't know how to do the work, it's just that the way the tests are formatted doesn't really appreciate people coming from different backgrounds. I know that that's been pointed out in mechanical aptitude tests for years, that there's a gender and a race bias in those, so I don't know what there is to do about that—maybe in terms of weighting some kind of experience-related things for people, as opposed to just your rating on a test.

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In terms of ratios, I think that's one part of the problem. But over the years, we've been keeping our ears out for any discussion on the trades and getting into apprenticeship programs. We've heard, in popular culture—the call-in shows on CBC—about apprenticeships, and people have apparently been talking about ratios for decades, right? I don't know if that's going to be the resolution of the problem.

Mr. Kevin Daniel Flynn: I think what has happened is that people have been talking about the ratios for decades and there hasn't been a proper way to address them. What people have been coming forward with is either, "Don't change the ratios," or, "Change them to what I want them changed to."

The idea here is that you will have what I think is a fair way of addressing what the ratios should be, with input from everybody.

Ms. Laura Parsons: And then a review process every four years.

Mr. Kevin Daniel Flynn: And then a review every four years.

The Chair (Mr. Lorenzo Berardinetti): That takes up all the time. Thank you for coming forward today and for your presentation. We appreciate it very much.

ONTARIO FEDERATION OF LABOUR

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next presentation, the Ontario Federation of Labour. Good afternoon and welcome to the committee. Just for the sake of Hansard, could you identify yourselves, because everything is recorded and put into Hansard. I've been asked to ask all deputants to identify themselves. I have "Irene Harris" written down here.

Ms. Irene Harris: I'm Irene Harris, secretary-treasurer at the OFL. With me is Pam Frache, our education director.

The Chair (Mr. Lorenzo Berardinetti): Good afternoon and welcome.

Ms. Irene Harris: Thank you very much. Rather than read through the whole brief or try to get through a whole series of recommendations—we've got copies for you—I just want to speak to three or four key items that we want to highlight with you.

The first thing I should let you know is that at the Ontario Federation of Labour, we have a very effective apprenticeship committee, which is made up of members of the building trades, the industrial sector, the public sector and teachers. We also have our OPSEU members who are involved in MTCU. So this is really a consensus

document that we've got. It was a huge task to go through this legislation, because there is so much to it. Let me just start with the governance structure that is talked about in the bill.

At the OFL, we strongly support a governance structure for the trades in Ontario. We think it's important to get it out from the way it is constructed within the ministry and to have a governance structure.

When this was first talked about in the province, we were able to organize a visit to Ireland and Germany. Those two countries have governance structures that have been in place for some time and are extremely effective. Both those countries are known for their training of tradespeople.

One thing that we came away with from that was a recommendation we want to share with you and ask you to support, which is that the college of trades should have a tripartite structure. The structure, from the board of directors to the committees, should be made up of representatives from the business sector, and those representatives should be appointed by the business structures we've got in the province; the labour representatives should be representatives of the Ontario Federation of Labour and the provincial building trades; and there should be an equal number of government representatives, who of course represent the public.

We don't support the structure that is in the bill. We think it's cumbersome. It also is not one that is allowing industry players who are actually involved in the trades and in apprenticeship to really take control over what is going on in those sectors. That should really happen within the college structure. Consequently, we are opposing the whole structure of the board and the way they've got the appointments council set up, and really urge you to consider the tripartite structure.

We think the other point we want to make is really critical: If you look at the history of what has gone on in Ontario with the trades and apprenticeship, we have two pieces of legislation, which this act of course will get rid of; we'll have some kind of merging. But we're very concerned with what's happened under the Apprenticeship and Certification Act, which was brought in under the Conservative government. The Mike Harris government brought that in. It was really a bid to deregulate and get rid of the trades—really break up the trades, is what the agenda is in that legislation. We're very disappointed that our Liberal government is not taking action to get rid of the problems that were established by the Apprenticeship and Certification Act, and they are many. What this law is doing—the current bill—is just taking the Apprenticeship and Certification Act and throwing it all in with the Trades Qualification and Apprenticeship Act and not really coming to grips with the damage that was done by the Conservatives under their Apprenticeship and Certification Act.

I just want to give you two examples. One is that under the Apprenticeship and Certification Act, they created a position called hot-tub installer, which is a job that used to be done by a plumber or a pipefitter. They

said, "Let's just take out a piece of that trade and create another trade out of that," so we end up with hot-tub installers. There's a whole list of—usually we like to read them all out because it's actually quite amusing, some of the trades that have been created.

Another one that we want to give you an example of—which this bill is not dealing with—is the four trades that were created in call centres. If you're a call-centre person on the phone and you get apprenticeship training, you're in something considered a trade. The province is giving apprenticeship training money to those call-centre positions. There are four of them, and they really are not trades. There's a whole host of trades that have been created under the Apprenticeship and Certification Act that really should not be considered trades, and what you're doing is throwing it all into Bill 183 into that college of trades.

We asked our counterparts in Ireland and Germany just how they deal with this issue of the ACA kind of non-trades and authentic trades, and they said it wasn't that complicated; that really there are the authentic trades, the ones that take four or five years to become really well-versed in being a tradesperson, being a journeyman. The other, what we're calling non-trades in the Apprenticeship and Certification Act, are referred to as certified occupations. So they said to us, "If you have hot-tub installers in Ontario, it might make sense that you want them to have some kind of certificate that says they know what they're doing when they go and wire up that hot tub." But really, they're not a full trade, and you shouldn't fool students going into the trades, or people using trades, that they've got a full tradesperson when they don't. They've really got someone who's in a certified occupation. Within that, if you want to have call centres and keep that as a trade, you really should be keeping it a certified occupation and not giving it the title of a trade.

We're suggesting that this bill needs to be amended to acknowledge that there are such things as certified occupations and they are different than an authentic trade. Consequently with that, the structure of the college of trades is talking about having pillars—they've got the four pillars—and we're really saying that we're not sure that that is something that's needed. If they are needed, then really they're more properly construction, service and industrial pillars, and there could be a fourth pillar with all of these certified occupations in them, so that if a certified occupation were eventually to become a full-blown trade, then they could get moved over. So, we're really asking you to give amendments that will differentiate between authentic trades and certified occupations.

We also believe that the building of the college should not hold back the important work, urgent work, that needs to be done to create new compulsory trades. There are many employers and unions who are identifying full trades that should be compulsory, and we're recommending that there should be something here that allows that development to act more quickly and not wait for the whole college to get established.

Finally, we want to refer you to the disciplinary section of the act. We're really disappointed that it looks like the government just took sections out of other colleges for disciplining members. It goes on for pages and pages and complicated committees, and really we're not in favour of this. We think that there's too much stress on disciplining individual members, and what's really needed in dealing with trades and the college of trades is enforcement of work-site codes, regulations and standards. They're the kinds of things that need to be enforced.

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We recommend that you really get rid of that disciplinary section and put in a stronger enforcement mechanism that says that wherever trades work is going on in the province, we've got to make sure the codes, regulations and standards are enforced. While some of that work gets done by health and safety inspectors and within the MCTU, it would be good for the college as well to have an enforcement section within it that works with those other ministries to make sure that the rules and standards are enforced.

With that, I'll conclude my comments and turn it back to you.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much. There's about seven minutes left for questions, and we'll start this time with the NDP. Mr. Marchese, you have two or three minutes.

Mr. Rosario Marchese: I'm probably the only one who agrees with you that we should have two designations between the authentic trades and the certified occupations. I'd be curious to see whether the Liberals are going to respond to that, but that makes sense to me.

I also like the German system. That made sense to me as well. I visited Germany in 1986 and was really impressed with their training. For years, I've been critical of the Conservative government and the Liberal government in terms of what we're not doing around apprenticeship programs in general and how we should do that better.

I agree with the tripartite way of structuring the governing council. I suspect I'm the only one who agrees with you on that as well, but I'd be curious to see whether the Liberals are going to respond to it.

On the enforcement side, you and the coalition of compulsory trades in construction have spoken very strongly about this. I think we need to beef that up. This bill does not do it. The coalition of compulsory trades in construction makes the point that the role of inspector should extend beyond establishing fact conditions, and the role of inspector should include the duty to promote and ensure compliance—there's a whole list of comments that they make.

I support what you're saying; I support them. I hope the Liberals will comment on these things after me. Thank you for coming.

The Chair (Mr. Lorenzo Berardinetti): Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you for your presentation. My understanding of what you've said to us is that you believe the college should not exist in the form that

is being proposed; you'd much prefer to see a tripartite form. You aren't opposed to the college itself; you just think that the form of the college that's being proposed doesn't serve—

Ms. Irene Harris: That's right. We're very much in support of a governance structure for trades. Our concern, when the title "college of trades" came out, was that many immediately think of the nurses' college and the teachers' college. We have affiliates who deal with both of those colleges, and their advice to us was that what's really happening at the teachers' and nurses' colleges is that there's less focus on the occupation and what you can do to further the occupation, and this huge amount of energy and money spent on disciplining members.

The teachers told us that two thirds of the disciplinary issues that are raised are found to be frivolous. Their advice to us: "Worry about what this college of trades is actually going to do and how it's going to function." We want to see that the industry players—business, labour and government—are really strengthening the trades and apprenticeship, and they're not going to do that if it's just borrowing that college structure.

We support the college of trades as a governance structure, but we want you to amend it to make sure that the industry players have more say in what's going on, and that it doesn't just become a disciplinary—

Mr. Kevin Daniel Flynn: Thank you. That's more clear. I believe my colleague Mr. Moridi has a brief question.

The Chair (Mr. Lorenzo Berardinetti): Go ahead, Mr. Moridi.

Mr. Reza Moridi: Thank you, Ms. Harris, for a wonderful presentation. You mentioned that your organization's view is that the governance of the college should be tripartite.

Ms. Irene Harris: Yes.

Mr. Reza Moridi: There is a provision in the proposed legislation that the college board of governors is composed of 21 members, 16 of them elected from industry reps and also from worker reps, and five basically government appointees, lay people. So I guess that serves a purpose, doesn't it, in your view?

Ms. Irene Harris: Well, you've got five public members who I believe the legislation says should have nothing to do with the trades, right? That's a real concern for us. Even the review panels that are going to decide in compulsory trades, the suggestion is that they should be people who are so arm's-length from the trades that they're not involved in it.

What we're saying to you is that the structure has to be so that the decision-making capacity is done by those players who deal with the trades on an ongoing basis.

Mr. Reza Moridi: But wouldn't you think that those players, the 21-member decision-making board—I mean eight of them coming from employers' representatives, eight of them coming from employees' representatives, and the five coming from the general public—

Ms. Irene Harris: But the five from the public, they're not government representatives, you see. In our—

Mr. Reza Moridi: Well, they'll be appointed by the Lieutenant Governor in Council's order.

Ms. Irene Harris: The way they've structured it in Germany and Ireland is that those public members are actually people from government, because they're elected to represent the public, so that's where the public part of it comes in. Hopefully, they'd be ministry people who deal with the trades.

The other concern we've got is that definition of "employee"—like you say, eight employee representatives—and there's nothing that indicates that they would be from—we want them from organized labour, of course, because our concern is when you have an employee representative on a committee and they're from the non-union sector, they end up having to side with the employer because they have no protection to say honestly what's on their mind. They're put in a very difficult position.

The other thing we think the act should say is that those employer representatives and those employee representatives should come from organizations. The business sector of Ontario has organizations that should appoint their employer representatives—there has been accountability back to that—as with the employee representatives.

We're saying they should come through the OFL for the industrial and the public sector—the building trades have their provincial building trades structure that could appoint—and they should be done by appointment so that there's clear accountability back to those organizations, as opposed to the way the teachers and nurses do it—and hence the way this college of trades is looking at doing it—where you have individuals elected and there's no accountability back to anybody.

We're just saying that is not the way to go. Germany and Ireland have instructively given us places where it works well to have it by appointment from those jurisdictional organizations.

Mr. Reza Moridi: Thank you.

The Chair (Mr. Lorenzo Berardinetti): At this point, I'm going to have to step in. Thank you very much for your very thorough presentation. You're right on time there with your answer. We'll move on, then, to our next deputation.

Mr. Reza Moridi: Bob has another question.

The Chair (Mr. Lorenzo Berardinetti): I'm sorry, Bob, did I miss you? Excuse me, Ms. Harris, my apologies.

Mr. Robert Bailey: That's all right. I just had one question. Sorry, I was too shy. I need to speak up.

The Chair (Mr. Lorenzo Berardinetti): Okay. Mr. Bailey.

Mr. Robert Bailey: That's okay. I just wanted to compliment you on the presentation. I was quite interested in the support for the governance. I was concerned about the governance structure as well, so I liked your ideas on the tripartite structure, especially where you involve the industries which are actually employers and make sure that they, whether it's through the chambers of

commerce or the different employer groups, advocate and make sure that they are part of that, and that it's not just weighted to the labour side. I think the only time you'll get buy-in from the employer groups and from the rank and file, in fact, is if they know that the management side is also represented there.

Anyway, I don't have anything other than that. I just wanted to say that I believe in that too. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much again.

PROVINCIAL BUILDING AND CONSTRUCTION TRADES COUNCIL OF ONTARIO

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next presentation, which is the Provincial Building and Construction Trades Council of Ontario. Good afternoon, and welcome.

Mr. Patrick Dillon: Good afternoon. I'll get my BlackBerry in here.

The Chair (Mr. Lorenzo Berardinetti): If you could just identify yourself for the sake of our Hansard—

Mr. Patrick Dillon: Patrick Dillon, business manager of the Provincial Building and Construction Trades Council of Ontario. I want to thank you for the opportunity to come in front of the panel to share some views.

I would like to start out by commending Tim Armstrong, the author of the report on the expansion of compulsory certification, because in doing that, he realized that we needed more in the trades training area in the province of Ontario than just the discussion around ratios and compulsory certification; and, vis-à-vis that, we're here talking today about a college of trades. As a tradesperson, I really think that this is a great thing if it's done right.

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I also want to comment that Mr. Whitaker, who undertook the enormous task of dealing with all training stakeholders to make recommendations on how the college should be structured, should be congratulated, because I believe that he did a pretty balanced and fair job at making the recommendations to government that bring us here today.

I have some overall comments that I'd like to make, and I would make them as a tradesperson. I get concerned sometimes that when we're dealing with tradespersons issues, we start to hear it from people that are experts in the trades training area that have never been in a trade. It is somewhat concerning, and I say that for a number of reasons. Not that I've put a whole lot of weight to it, but some of my employers, some of them maybe not so friendly, think that the—they're afraid of this college, that the building trades are going to have some amount of influence on what happens in the trades. I can understand that a little bit, but I want to give you a little bit of the history of the building trades themselves.

We really have our origin on this continent in the building trades unions, because voiceless immigrant

construction workers were being killed on projects much too regularly back in the 1800s. That was really the formation of the building trades unions, and we came together collectively to increase the training to help with the safety so that these injuries and deaths wouldn't take place as regularly as they did in our industry. You need to understand that, that there is a direct correlation between trades training and safety.

So when your decision-making goes forward here, I'm asking you, and I ask all the political parties, to please look at this as a way to improve training in the province of Ontario, because if it's lessened, the end result out there is carnage in the workplace. It's important that we go forward and do the right things here in creating this college.

One of the differences, and I say this—probably someone will say, "Well, he's biased because he's from construction," but I make no apologies for that. But on this college structure where you have the four pillars, the construction pillar itself is, I think, distinctly different than maybe the other three pillars, in the sense that the only outcome of what we do as a construction pillar is train tradespeople. That's the sole outcome of what construction does with training. The other three pillars train tradespeople too, but they sell widgets—whatever the manufacturing sector would be. They have more interests than just the trades training, but in construction, it is trades training. So our industry, including the employers, works together to see that the trades training is up to the standards. We believe that they can be increased, and we look to the college to try and do that.

Construction has been a leader in the field of training apprenticeships. Traditionally, we have more real apprenticeships than any other of the pillars. The composition of the board of directors calls for four representatives from each of the pillars—some people are saying "divisions," but I call them "pillars"—plus members from the public, plus a chair.

Now, there was comment made earlier here, and I agreed with part of the comment, that apprenticeships should be seen as higher learning, and yet the same people, when they said that, said that they should get an appointment to the board because they're from the higher learning institutions, as if the tradespeople aren't. I think you need to be aware of those distinctions as you go forward.

There was also some comment made about how business associations—and I'm not really one to be explaining to business how they should appoint their delegates, but I do believe that people on the governing board representing business and workers ought to be people who are either real contractors or real tradespeople, and that may be an apprentice. An apprentice could be part of that. Seeing that we're talking about the future of the trade, the apprentice would actually fill that.

From an overall perspective, the direction for action seems to be driven from the top down. We're concerned about that. We've had some issues over the years with MTCU itself struggling with—you had the provincial

advisory committee set up, and it looked like MTCU wasn't listening to what the industry was saying, and that was real contractors and real tradespeople on the PACs. The direction that they were trying to feed in from the industry didn't seem to get the outcomes that we had an expectation for, so we hope to bust some of that up through the structuring of the new college.

In some ways, we think the bill has a flaw in not including apprentices as members of the college. I can't imagine that Mr. Armstrong thought about how you professionalize the trades but that the people who are going to be the future professionals shouldn't be part of it. I really believe that is something that needs to be dealt with. If you don't deal with it and we don't deal with some of these issues around compulsory certification—if you have a young person who's in a non-compulsory trade coming up to the end of their apprenticeship training and now they write their licence for their trade certificate, if they're not going to be going into a compulsory trade, why would you spend \$100 for a licence that there's no enforcement for?

The issue was raised here about enforcement. We totally support that, and I've heard some of my—I read a little bit about some of our employers concerned about the enforcement, that it's just going to be a mechanism for the construction unions to attack the employers. Well, you know what? I could make that case about the 401 highway. The only person who has to worry about the OPP stopping them is somebody who has an infraction with the law. They don't very often stop me to see how I'm doing. I suggest that that's probably the same—

Interjection.

Mr. Patrick Dillon: Yes.

So I think there are issues that need to be looked at there.

Two critical functions of the college are to review compulsory certification and look at the ratios. I think that that is something that takes industry experts to be able to develop the criteria around both of those issues. They've become somewhat political in the last few years, but they've existed for many, many years. All of a sudden, there are politics around them, and none of the politics that I hear, particularly around the ratio issue, are based on, "If we had that ratio differently, we'd have better tradespeople." You have never heard that argument; no one's given that argument. You may have some companies that make a little more money because they can hire some cheaper labour, but you will never hear—at least I've never heard—an employer saying, "If I had more apprentices, I'd have better tradespeople." That's the function here. The outcomes of creating the college have to be attracting people to the trades and better tradespeople coming out at the end.

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One of the other issues—and I'll cut off; I'll hopefully have some time for some questions—is, I believe this is a monumental project to start up the college of trades. I believe it's a great thing to do, and I think for all pillars it's a great thing to do, but I believe it's a monumental

project that can't be done all at once; it needs to be phased. Of course, being from construction, we would volunteer and think that because for us it's all about trades training that the phasing-in could start with construction.

Some of our construction people are putting our arguments or positions forward about starting with the compulsory trades. In some ways, that makes some sense at the college to start, because the compulsory trade tradespeople and the apprentices are already registered. So you've got a ground to start on and then build the non-compulsory around that, and the criteria around compulsory certification and ratios is primarily for construction anyway. In fact, I've been a tradesman all my life, and I could not give you—and I assume that a lot of people around this table couldn't either—much of an argument on what the ratio should be in the service sector. I have absolutely no idea, and I'm pretty sure that the service sector have no idea what it should be in construction.

So I'm going to cut off my comments there, and hopefully we've got some time for some questions.

The Chair (Mr. Lorenzo Berardinetti): We have about three minutes, so let's keep it to one minute per party.

Mr. Patrick Dillon: Can I make one more comment?

The Chair (Mr. Lorenzo Berardinetti): Sure.

Mr. Patrick Dillon: Just one more thing, and it's very important to us, is that I don't think Mr. Armstrong envisaged that this whole exercise should be a money-maker for MTCU. We believe—and we want responsibility passed over to the college from MTCU so that industry has more say—that the commensurate amount of budget should come with that responsibility. I'll leave my comments at that.

The Chair (Mr. Lorenzo Berardinetti): We don't have much time. Maybe a question per party.

Mr. Kevin Daniel Flynn: I can be quite brief. Thank you, Pat. If you could answer three questions for me, perhaps. You were saying it was a monumental task, obviously, but you're still maintaining it's a step in the right direction and it's a thing we should do at the end of the day. You had some concerns about the appointment process, if you could expand on that. And the idea was that the bills proposed do not include apprentices now. You were saying you think they should be included. Obviously, one of the fears was that the extra cost may make that onerous on somebody who is not earning a full rate of pay yet. Could you address that as well?

Mr. Patrick Dillon: Okay. The appointments process—Irene Harris talked a little bit about that as far as where they should come from. Construction workers should come from appointments from the representation from the building trades. I would suggest, looking at the employers' side, I like sitting across the table talking about trades training with a real employer, not necessarily—and I have no disagreement with the chamber of commerce or the CFIB—but a trades contractor needs to be sitting across the table when they're talking about

their trade. So that's one of the things I would say, and the same with the federation of labour, that the labour reps do come from the organized labour, the OFL.

The apprentices being included in the college: I think it would be absurd to start this process talking about the future of trades in the province and professionalizing the trades and not bringing the apprentice forward. You know what? There are some costs. The licence of the tradesperson is \$100. An apprentice now pays \$40 when they register. They should pay that \$40 up front and not pay again until they become a journeyman and then pick up the \$100.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on to Mr. Bailey.

Mr. Robert Bailey: Thanks, Mr. Dillon. It's good to see you again. My main comment—more of a comment than a question—I come from Sarnia-Lambton, and we've got a great relationship with the building trades and the business community there. I know you're well aware of it. You maybe worked there a few years ago when I did in the trades, and I had a lot of connections with the trades there in my former employment.

Do you support what they talked about—and I agree with you, where you'd be sitting across the table from these appointees. Someone like Ray Curran from Curran Contractors actually knows what you're doing and what you're representing. So I'd support that, and the tripartite—

Mr. Patrick Dillon: I agree with bipartite at the committee level; at the governing board, I know the OFL was saying tripartite, from government, business and labour. The government is recommending people from the public. We're not overly concerned how that works out, but one thing for sure: When you're appointing people to that board in any pillar, nobody should be appointed who doesn't employ apprentices.

Mr. Robert Bailey: I'd agree.

The Chair (Mr. Lorenzo Berardinetti): Mr. Marchese.

Mr. Rosario Marchese: I have two questions, but I won't be able to ask the two. Did you hear the deputants Zaid Mouhou and Laura Parsons earlier on at 2:15?

Mr. Patrick Dillon: Yes.

Mr. Rosario Marchese: Do you have a response to what he was saying?

Mr. Patrick Dillon: Their issue was the aptitude test.

Mr. Rosario Marchese: There were 1,000 applicants and—

Mr. Patrick Dillon: Yes. Part of the problem there—people won't believe that, because they read about the ratios and all this stuff; there's this real shortage of skilled tradespeople. In Toronto there are unemployed tradespeople, and in Hamilton and Windsor and a number of places in the province. Apprenticeship in construction is a job, and if the job doesn't exist, you can't get hired. So there are some issues there.

I heard them also speaking—it's not totally new to me—about some issues with the aptitude test itself. I agree that there are issues to be dealt with there, and I

think the college will help us, because there will be more tradespeople themselves dealing with them; we'll be able to deal with those things. I personally had a guy who failed the aptitude test five times and became the best apprentice electrician in the province of Ontario when he went to trade school. But he couldn't pass that aptitude test.

So are there problems? There absolutely are problems, and we need to deal with them.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for coming out today and for your presentation.

FLEMING COLLEGE

The Chair (Mr. Lorenzo Berardinetti): Our next deputation is Fleming College: Rachael Donovan, senior vice-president. Welcome.

Ms. Rachael Donovan: Good afternoon. Thank you for the opportunity to present to the standing committee with reference to Bill 183.

I want to tell you a little bit about Fleming College. It's located in central Ontario, about 130 kilometres northeast of Toronto. We have two campus locations in Peterborough: the McRae campus and the Brealey campus.

The Chair (Mr. Lorenzo Berardinetti): Sorry. Just to be sure, I'm asking every deputant to identify themselves and their position. I know I did it already and announced it, but I just want to make sure.

Ms. Rachael Donovan: I'm Rachael Donovan, senior vice-president of Fleming College.

The Chair (Mr. Lorenzo Berardinetti): Thank you.

Ms. Rachael Donovan: We have campuses in Peterborough, Cobourg, Lindsay and Haliburton. We offer about 90 full-time programs to about 5,500 students.

Amidst those programs are a great number of skilled trades and apprenticeship programs in areas of carpentry, electrical, horticulture and cook training. We offer most of those programs through our School of Continuing Education and Skilled Trades at our McRae campus in Peterborough.

I want to share with you a little bit about how enrolment has increased in the skilled trades, something that has concerned everyone a great deal in terms of finding workers for the future. In 2006-07, we had about 310 students enrolled. As of this September we have close to 800. Just from last year we've had a 30% increase in enrolment in the skilled trades area.

We also work very closely with our local school boards in offering dual credit programs. One of the purposes of offering dual credit programs is to attract our young people into the trades. Again, just to show you the amount of growth from 2006-07, when we had 15 high school students, as of September we have 250.

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Student learning and student success are at the heart of what we do at Fleming College, and offering hands-on

applied education is very important to us. Of course, this is key to apprenticeship programs and the skilled trades. Ontario colleges deliver approximately 85% of the in-school training required for apprenticeship, and Fleming is very proud to be part of that delivery, working with our industry partners. We hire faculty and staff who are experts not only in their trade and in their sector, but key for us is that they also have knowledge of curriculum development and teaching and learning techniques to help students succeed.

We at Fleming, and colleges generally, undergo regular curriculum renewal and revisions based on input from our industry partners. They meet with us regularly to ensure that we are always up to date with changes to the industry.

We were very pleased to see in the new legislation that the Ministry of Training, Colleges and Universities will continue to maintain an active role in the apprenticeship system by retaining the authority to designate training delivery agents and continuing to provide funding for the in-school portion of apprenticeship training. But as a college, we are concerned that the proposed legislation does not clearly demonstrate the separate functions of establishing training programs and delivering education and training. We believe that the educational component of the proposed mandate—namely, development of program standards—should reside with the MTCU and through the ministry with the organizations that deliver apprenticeship programs.

Currently, the MTCU and the Ontario colleges work jointly in the oversight of the educational and administrative components of apprenticeship. This oversight process works very well for our college programs and will help to ensure that apprenticeship is seen as the third pillar of post-secondary education. This is a very important concept to increase the attractiveness of the skilled trades for our future students and for the future of our workforce.

The proposed bill is not clear regarding who develops curriculum standards, and it could be interpreted that this function is transferred to the new college of trades. If this is the government's intent, it would have serious and, I think, negative repercussions on the post-secondary system and the future of apprenticeship training. I'm not aware of any other regulatory body in Ontario that sets curriculum standards or that designs programs that prepare new entrants to a profession or an occupation. As an example, the college of teachers does not develop curriculum. This is retained by the ministry.

It is important that the MTCU be given oversight and retain the development of curriculum standards with Ontario's colleges. Not to do so, I believe, would weaken the academic portion of apprenticeship. It's very important that the legislation therefore be clear in this regard so that roles are clearly defined and there is no room for misinterpretation.

We believe, however, that the college of trades has an important role in setting occupational standards. However, the main responsibility to design the curriculum

based upon these occupational standards that have been approved by the college of trades needs to be retained by Ontario's colleges. We at the college believe that we have the expertise in curriculum development, in setting learning outcomes and in assessing student performance in meeting these outcomes. Additionally, we have expertise in assisting foreign-trained workers as well as under-represented groups to overcome the barriers to participating in trades, and we're able to customize programs and provide the necessary learning and support services to help our students succeed.

I believe that it is this unique relationship among our learners, the college and the industry that makes our system the best in North America, and it's important to continue that.

Another issue that is important to our colleges and to colleges generally is the representation on the trade and divisional boards. The bill currently allows for four representatives from each of the trade and divisional boards, and, under section 20, the trade boards would exercise many of the same functions that the PACs and ICs provide now; for example, training standards, curriculum standards and examination of trades. Colleges generally have representation in these areas in an advisory capacity, and I think that is very, very helpful in terms of making sure that industry, as well as the educational institutions that provide the in-school training, work well together.

Industry and employee representatives on these advisory committees and on the trade and divisional boards are experts in the trades and in the sector, but they're not necessarily experts in designing learning outcomes, course content and teaching methodology.

For these reasons, Fleming College believes that setting curriculum standards must remain with MTCU and Ontario's colleges. This must be clearly stated within the legislation.

Another reason for MTCU having this responsibility is the funding implications if the college of trades is responsible for setting curriculum standards. We believe the significant risk here is that the curriculum requirements will impose obligations that exceed the funding allocated by the government, which could put the ministry in a place of having to fund curriculum requirements that fall outside of the funding envelope. As a result, it's important that MTCU maintain a coordinating role in the curriculum development process to ensure that there is coordination between the curriculum and the funding decisions.

Colleges, we believe, play a critical role in that they provide 85% of the in-school training of apprentices. So we believe that college representation on the trade and divisional boards will continue to ensure the important and ongoing relationship with our industry partners.

Ontario colleges play a vital role not only in training but in sustainability, expansion and growth of the trades.

I believe that the governing authority of the board would be more effective with the inclusion of a designated college system seat on one of the five public appointments to the board of governors.

Colleges can and want to continue to deliver apprenticeship programs that offer our students what they need to be successful, and Fleming College looks forward to working with the college of trades in modernizing the apprenticeship system and promoting the trades. Thank you for listening.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That leaves about a minute or so per party. This time we'll start the rotation with the Conservatives, and we'll ask Mr. Bailey; just over a minute.

Mr. Robert Bailey: Thank you for the presentation today. I was looking at your amendments at the back. We won't have time to go through them all, but of the five amendments there, if you could only have one, what would, in your opinion, be the most important amendment that we could make?

Ms. Rachael Donovan: From a college system perspective, the most important amendment would be representation on the governing board. From an individual college perspective, in all of our regions, having MTCU maintain responsibility for setting program standards, working with the colleges—a close second.

Mr. Robert Bailey: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Mr. Marchese.

Mr. Rosario Marchese: Yes, my sense is that the colleges will continue to have control of the curriculum, whether it's through the ministry or through the college. That's my sense; maybe the Liberals know better. But what is your current connection in terms of what you offer by way of the curriculum and what is given in the field?

By the way, from the Auditor General, we know that they do well in the field training, but the in-school component, which is 20% or less, they don't do as well. Do you have a better connection now with the ministry that you think you might not have with the college?

1520

Ms. Rachael Donovan: Through the ministry right now, program standards are set. These program standards are set with the colleges working with the ministry. The important thing here is that the colleges have the curriculum development and learning outcome development expertise, so that relationship works very, very well. We're concerned that we won't have the same relationship with the college of trades.

Mr. Rosario Marchese: Yes, I understand that, but at the moment there's a problem. Students who are in an apprenticeship program do well in the field training; they do poorly in the education component. That's what the Auditor General revealed. I'm concerned about that, and I'm not sure whether that's going to change whether it stays the same or whether it moves to the college of trades.

Does that worry you? Do you have any explanation for that? Do you think there's something else we should be doing? Your concern doesn't seem to worry me as much as how something is going on, and I don't know

whether we have a connection to the field at the present moment to fix that current problem that we've got.

Ms. Rachael Donovan: It depends on the very nature of the colleges and the relationship they have with industry. I think that is really critical. The closer a relationship you have with industry in looking at what are the barriers in terms of students doing well in the field but not doing well in school is something that needs to be examined. We as a college, as most colleges are, are very interested in improving that success rate.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on to the Liberals, then. Mr. Leal, you had a question?

Mr. Jeff Leal: It's very delightful for me to welcome Rachael from Peterborough today. I know that Fleming has a standard of excellence both in the field and in the classroom when it comes to training apprentices and their great relationship with manufacturers and businesses in Peterborough.

Rachael, if you could comment: You have a really interesting project that's moving forward to help apprenticeship training in the province of Ontario called the Kawartha Skilled Trades Institute. Could you take a moment just to talk about that? Because anybody from Peterborough is very proud about this initiative.

Ms. Rachael Donovan: Yes, I'm delighted. The project is something I have been working on. What we are looking to develop is a Kawartha Skilled Trades Institute where the focus is on bringing school, college and work together in one facility to help train future skilled workers for our province and for our country.

One of the most exciting aspects of this new skilled trades centre is the relationship that we have with our school boards as well as with our industry partners, particularly in the whole construction area. What we see happening is high school students coming into the facility, working with our college students and working with the industry people who may be there for retraining, all working together so that the students will be able to see a pathway for themselves, from high school to college into the work world.

I want to thank Jeff for all of his support in helping us move this concept forward. We're very, very excited about it.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much. That takes up all of our time. Thank you for your presentation today.

Ms. Rachael Donovan: Thank you.

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next deputation. Although it says, "To be confirmed," we have our 4:45 appointment here. The International Brotherhood of Electrical Workers is present. I'd like to welcome you to our committee. If you could kindly identify yourselves for the record. You have 15 minutes. Any time not used will be used up—

Mr. Barry Stevens: I'm Barry Stevens, and I represent the International Brotherhood of Electrical Workers in the First District office, which covers all of Canada. I'm the political action media strategist. Don't be worried about that name; it's like titles in anything else, right? In conjunction with that, I'm also the president of Local 353 here in Toronto, which covers the greater Toronto area for the electricians. My colleague here is Steve Martin, who is a table officer with IBEW Local 353 and active within apprenticeship training.

I thank you for having me here and allowing me to speak. The reason I brought Steve with me is because my job here today is to represent the IBEW international office, and Steve can answer local questions.

The International Brotherhood of Electrical Workers represents approximately 30,000 workers in Ontario, covering occupations such as electricians, linemen, utility workers, railway workers, manufacturing, pulp and paper mill workers, public sector workers and many other occupations. The IBEW represents more registered apprentices than any other single company or organization. In fact, our Toronto construction Local 353 and the Greater Toronto Electrical Contractors Association have more apprentices being jointly trained than any other group in Canada. That's 1,600 to 1,800 apprentices at any given time. I should add the completion rate for those apprenticeships: Well over 95% of apprentices that are assigned to us complete their apprenticeships.

After reviewing Bill 183, reading Kevin Whitaker's report—which was very good—and digesting 184 pages of Tim Armstrong's report, which I'm sure all of you have gone through, a number of concerns over how the proposed college of trades would be structured and implemented were brought to our attention.

To further gain knowledge on this important change in direction by the government, we began dialogue with other affiliated labour organizations. We journeyed to Europe with the Ontario Federation of Labour and other interested unions to study how they regulated, trained and enforced trades in Germany, Ireland and England. The amount of time and co-operative effort from our union and others has strengthened our belief that, if done properly, the college of trades could have a positive influence on the training and the economy of Ontario.

We also endorse the basic premise of the Armstrong report, which was to bring respect, dignity and professionalism to the trades and their occupations. However, we have found what we believe to be some structural problems in the implementation of Bill 183, which should be corrected. When constructing a building, laying a strong foundation is important to the structural integrity of the project. It should be the same in building a college of trades; the foundation must be rock-solid.

For the most part we support the position of the OFL, because we do represent industrial workers also, and their major concerns. We also support the position of the Ontario provincial building trades, which will be delivering a written report once it's written. Next week, you will hear from the coalition of trades in the construction

industry; it's coming forward next week also. On behalf of the construction workers, whom we also represent, we will support their position. There is a number of positions that we're supporting; we think they all go together.

Enforcement: There is very little reason for creating the college of trades if there is no increased protection for licensed trades. The Armstrong report recommended enhanced enforcement. What would be the point of having all the workers of regulated trades belonging to the college if unlicensed, untrained workers continued to poach jobs in what is supposed to be a regulated market? To ask a worker/member to pay for the privilege of belonging and exposing themselves to a complaint process while someone who doesn't belong is not under the threat of the same scrutiny is unfair.

We think that in the regulated trades, no one should be allowed to perform licensed work without being completely qualified. A mechanism must be developed to ensure that this happens. It could be as simple as hiring more inspectors to go out and check licences or allowing trade inspectors, like hydro inspectors, to check for certification of the worker who installed the project, not just the work itself, to make sure of that.

On apprentices, we believe that the apprentices should be part of the college. To attract younger people to trade occupations, the college is going to be representing respect and an ongoing learning ability. This is an important message for new tradespeople to embrace. If you want young people to come into the trades, there's nothing like having a college and some respect for it. If you want professionalism, it has to be ingrained early in their careers.

1530

It is also important for apprentices to belong so that they can directly represent themselves if any changes to regulations that may affect them, such as ratios, are brought into play. I think their voice needs to be heard—and they can do that within the college.

Apprenticeship sponsorship should not be available to private institutions. It is important that apprenticeship in trades not become a dumping ground for the disenfranchised worker. If that happens, it would destroy the intent of the Armstrong report, which is to raise the level of professionalism in the trades.

There are two different types of apprentices: Some are from certified trades, and others represent non-certified trades. The college needs to promote authentic apprenticeships. Clearly, there is not a clear definition of what an apprenticeship represents. An apprenticeship should be defined, as it has been for many years, as a mix of both working under a professional journeyman's direction, accompanied by periodic educational training. We do that at 353. In conjunction with sending people to college, we have Saturday classes for our students, and that's why we get the high success rate. Without that, they'd go to college and probably wouldn't do as well.

Phasing in of the college: There have been suggestions of phasing in the different sectors of the college. The IBEW thinks this makes sense. Look at it as an oppor-

tunity to implement the new process in a controlled environment. The construction sector may be the most complicated sector in the proposed college. There is a time-honoured saying in the building trades: "Measure twice and cut once." What it means is, take your time and get it right the first time. The college should apply this philosophy to its implementation procedure.

Building from the bottom up: Trade committees need the ability to make decisions that affect their concerns. Any issues at the trade level are made on a panel consisting of representation from all those concerned, contractors and unionized workers alike. The IBEW sees the governing board as a body that would implement the wishes of the trade committees.

Some other loose ends that we'd like to comment on:

The college should define clearly what constitutes a trade. Trades need this definition to prevent any overlap or misrepresentation for the certified trades.

Consideration should be given as to who nominates members to the variety of boards within the college. An example would be in construction, as Pat Dillon said, where the nominations should come from the provincial building trades. We think that makes sense.

The college, to succeed, needs to have representation from as large a base as possible. To do this, the college should endorse card-based certification for all workers. Having workers outside of the college undermining members who are already under scrutiny is an unfair advantage. The government should consider bringing fairness to the workplace.

The college must be designed to protect the members from many of the conflicts the government will encounter when the agreement on internal trade is enacted, particularly section 8 and regulations around mobility. These two bills are very complicated, and one will affect the other, and I don't think that most people are spending the time to look at that problem. It's coming forward. I'll be down here for that one too, I imagine.

In conclusion, I would like to say that Bill 183 has the ability to make an important contribution to the lives of working people in Ontario. As mentioned earlier, the IBEW feels that a phased-in approach best serves all those involved. We look forward to working in conjunction with the college and making Ontario a better place for working people.

Thank you for your time.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That leaves us about six minutes for questions. We'll start with the NDP. Mr. Marchese.

Mr. Rosario Marchese: Thank you, Barry. I think the OFL makes the same point you're making. They say that whereas the trades qualification in the apprenticeship act clearly establishes that an apprenticeship program must be a minimum of two years, Bill 183 makes no such provision. As Bill 183 is presently written, any program can be classified as an apprenticeship program, regardless of whether such a program takes weeks or six years. That's what you were speaking to. Is that correct?

Mr. Barry Stevens: Yes. The electricians, we have, pretty well—what we think in the IBEW—a good program, particularly at 353. But there are other occupations within our industry that still require skill and still require apprenticeship training, and that's what we're trying to do. To bring that professionalism, we want some standard of training, and that's where we agree with the OFL.

Mr. Rosario Marchese: Do you agree that the college should have the authority to register apprentices and to revoke this registration when warranted? It doesn't have it at the moment.

Mr. Barry Stevens: No, it doesn't have it at the moment. I think the apprenticeships should be long, but I'm somewhat concerned around the college because—at this time, my main concern is who forms the committees and how it works, from the bottom up or top down? If it's top down, I'm worried at the fact that—

Mr. Rosario Marchese: I agree with you. The point about having apprentices represent is one thing. The other point about whether the college should have the authority to register apprentices is a separate point. At the moment, that stays with the ministry; I'm not quite sure why that is so. I believe the college should have the authority to register apprentices and to revoke their registration. And you—

Mr. Barry Stevens: No, no. I'm not saying that the college—the part that I'm having a problem in is around the revoking of apprentices. I'm not worried about them having them registered within. Again, the part that worries me as much as it does the OFL is the disciplinary procedure. If an apprenticeship could be revoked on a mere complaint, that's where our problem lies.

We haven't got a clear standing on that, I have to admit, but I do want them in and I want them registered to that, and the college should look after them. It's around the disciplinary part where I'm having the problem, because as Pat said, we'd hate for someone who wrote the test five times, got in and is the best electrician in the world come up against somebody who has it in for him and puts in a false complaint that they can't really stand up against, and they're removed just because somebody made a decision. That's not right and that's what concerns us.

Mr. Rosario Marchese: Got you. Thank you, Barry.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on to the Liberals. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you, Barry, and thank you, Steve, for your presentation and for the constructive tone in some of the suggestions that you've made.

You concentrated a little bit on the investigation and on the enforcement proposals that are contained within the bill. Our understanding is that the MOL would be involved, the TSSA, the ASA would be involved, and the intent is to endow the college with the ability to cause investigations and enforcement to happen. I guess I'm having a little bit of a difficult time understanding where the concern really lies so we can zero in on it.

Mr. Barry Stevens: We think it needs to be enhanced. As it stands right now, there are huge amounts of workers in construction, in the regulated trades, who have no certification. They aren't even registered apprentices; they are basically helpers on the job, doing whatever task is available—and some of them on jobs, where the contractor undertakes many disciplines, these workers just cross from—one minute they're doing electrical work, the next minute they're helping the plumber, with no licence and no training towards that trade.

Mr. Kevin Daniel Flynn: You also talked about a phased approach. Other people have come forward, and I think the bill proposes to ask the college to deal with ratios and compulsory certification as a priority. Can you explain how the phasing might affect the ability to deal with those two important issues early?

Mr. Barry Stevens: Well, I think Pat said it the best. I'm a construction electrician; I wear a bigger hat sometimes, and sometimes I wear a small one. This time I'll answer as an electrician.

We think construction is complicated enough by itself, but to try to do all the pillars at the same time is not the way to go. We think if you phase it in, pay attention to the one pillar, get it done right and deal with the problems of—ratios are something we can deal with further down the road. It's putting the panels together, getting the structure and having everybody understand how it's going to work—because we're not always going to be in agreement. That's an impossible world. I mean, everybody's entitled to their opinion. We want to make sure that the structure's there, that we can deal internally with those differences of opinion and come to a consensus.

If there's anybody who knows about negotiation, it's construction unions. We live and die by them, so we're good at negotiating and not always getting our own way. Our employers make money, believe me.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Bailey?

Mr. Robert Bailey: Yes, thank you, Mr. Martin and Mr. Stevens, for the presentation today.

Everyone has talked about a number of these issues. It's so repetitive. I'd like to zero in on the one that I don't think anybody brought up today, about the other bill that's going to be coming up later on. I've been dealing with my local unions back home, and they're quite concerned about both this and the other one.

Explain it to me in the short time you do have. Down the road, when people come from, say, British Columbia—I understand there's a different training regimen there, and they'll be coming into Ontario, as I understand it—how's an electrician who's trained, say, in Sarnia or Toronto, who's had to spend a certain amount of time to become qualified and trained, going to be absorbed into your local? Is that the nut we're going to crack later on?

1540

Mr. Barry Stevens: Boy, we're going to have to do dinner over this one, but I'll try to be short. The Agreement on Internal Trade is complicated, and the fact that all the provinces—it's been on the table for a while, but

now the labour mobility stuff is coming forward and it's being moved to the front burner—it's been dormant for a while—and all the governments, with some pressure from the federal government, have been trying to get on board with this.

The mobility issue is that two provinces with the—it's no problem where you have two red seal provinces, because those electricians will all match the red seal, and that's not a problem. But in a province that has, let's say, a passing grade of 50%, if they bring workers in and you've signed the deal, it's the lowest common denominator. So in effect, what happens is we're building the college of trades to raise the standards of the workers within the whole thing, and yet at the same time, the Agreement on Internal Trade will be saying the lowest common denominator on labour mobility between those occupations. They contradict each other somewhat.

I think we're going to have a little problem when that comes forward. I don't have the answer yet. I've been wrestling with it. The provinces that I represent in the west, particularly Alberta and BC, have the TILMA agreement, which is beyond that because BC has deregulated trades and pulled them apart in pieces. They are going to be a problematic province if that happens.

I wish I could give you a clear answer, but you and I will have to talk, as I will with every party, around that issue.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for your very thorough presentation.

MOHAWK COLLEGE

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next deputation, Mohawk College. Good afternoon and welcome.

Mr. Piero Cherubini: Good afternoon, Mr. Chair. My name is Piero Cherubini and I'm the dean of apprenticeship training at Mohawk College. I'm going to restrict my comments to my written notes, maybe skip over some things that have been said before and leave some time for questions because I've found, just from listening in the last few minutes, that seems to be the most interesting part of the presentations here.

I'd like to begin by just telling you a little bit about Mohawk College. We're in Hamilton. We have four campuses. We annually serve about 10,500 full-time students and 4,000 apprentices, as well as 5,000 adult learners and 42,000 CE or continuing education registrants. We offer over 120 programs in engineering technology, health sciences, human services, business, and arts and communications, and have apprenticeships in just about all of those faculties. We are the largest trainer of apprentices in this province and, through some help from the government, we recently invested \$29 million into our new campus in Stoney Creek to build up our capacity to deliver apprenticeship training.

We have strong partnerships with business and industry, and with the many unions aligned to our trades and apprenticeship programs. At Mohawk, we believe

college, university and apprenticeship constitute the three pillars of post-secondary education. When these three pillars are supported, they contribute to the economic strength and prosperity of our communities and province.

In our region, we are reaching people who otherwise would not have the benefit of higher education. We all know that for our province to be globally competitive, we must have more people with post-secondary credentials. Our student population ranges from those coming directly from high school to university grads looking for practical skills and to recently laid-off workers.

With the economy in transition, particularly in the steel industry in our region, it's critical that we remain on the cutting edge and provide the necessary training our learners need to succeed. This is one reason and the main reason that we work closely with industry to ensure that our programs respond to industry needs.

Because we have a strong college system, we have the opportunity to reach that proportion of our population that doesn't have post-secondary credentials. We believe the future of education and the demand for skilled workers will require us to improve the apprenticeship system in this province.

Mohawk generally supports the proposed legislation and believes in its intent to improve and strengthen Ontario's apprenticeship system.

As you know, apprenticeship is an industry-based learning system that combines job experience, technical training and theory. Ontario's colleges work in partnership with employers to deliver the in-school portion of apprenticeship training.

I know that today you've already heard from Colleges Ontario, the advocacy association for Ontario's 24 publicly funded colleges, and from my colleague at Sir Sanford Fleming. So in the interests of time, I'm going to focus on what we believe are the most critical recommendations.

Our primary concern is the proposed governance structure of the college of trades. Under section 12, the proposed bill sets out the governance model. This section creates a board of governors to manage and administer the affairs of the college of trades.

The board would have 21 members, made up of four members from each of the construction, motive power, industrial and service sectors. Two of the members from each of the sectors would be employee reps and two would be employer representatives. Five members would be appointed to represent the public. It's troublesome that Ontario's public colleges do not have a seat on this board of governors.

In 2007-08, the colleges of applied arts and technology were allocated approximately 85% of the total seat purchases in the province. The colleges' proportion of total provincial apprenticeship seats has increased recently.

As a major contributor to the success of the apprenticeship system, it's puzzling that we would not be given a designated seat on this board. We have critical knowledge and expertise that will only serve to strength-

en the apprenticeship system. We bring a broader perspective and understanding of what's changing in the workplace.

Without the voice of a major contributor to the apprenticeship system, the college of trades will not be successful in strengthening the apprenticeship system. As the primary delivery agent for apprenticeship in-school training, it's incumbent upon the government to recognize and support this role. The fact that college educators are not represented on the board of governors is a major oversight and would negatively impact on the functioning of the board.

As the board of governors will direct and supervise the work of the college on all significant broad policy questions, there needs to be a designated seat for a public college representative. We strongly urge this committee to designate an additional seat for a public college representative. Another option would be to consider one of the two existing seats that were dedicated to the public to be designated to the college system.

There are many examples of other regulatory bodies that have recognized the important role of educators and have designated representatives from the education sector on their governing bodies. Some of these include the Professional Engineers of Ontario, the Ontario College of Physicians and Surgeons, Royal College of Dental Surgeons, chartered accountants, and certified engineering technicians and technologists. In fact, some of these bodies have two board seats strictly for individuals from the educational institutions.

A second suggestion on the governance we would like to make regarding the board governance structure is the notion of representation by participation.

Mohawk College works very closely with our community, including the many unions that strengthen our labour force regionally. We would suggest that the voices of organized labour, large corporations and education might be balanced by participation by small and medium-sized business, who may not have the resources to participate with government at the same rate as larger, organized sectors.

We would support that board membership be truly representative and seats be reserved for small and medium-sized business as well as organized and non-organized membership in all four of the construction, service, motive power and industrial trades sectors. We believe this will help to enable the work of the board to focus on training and certification issues.

A third area of concern for us relates to the curriculum development. As my colleague from Sir Sanford Fleming spoke to this earlier, the proposed bill could be interpreted as the curriculum standards function is now moved to the college of trades because it does not clearly state where this function resides.

In order to modernize apprenticeship training in this province, curriculum needs to be reviewed and revised in a timelier manner than is MTCU's current practice. Maintaining relevant and current curriculum standards is a staple of Ontario colleges. It is our core business, and

frankly, we do a good job at working with industry to make sure our students graduate with skills required in the workplace.

We strongly encourage this committee to ensure that MTCU retains curriculum development in coordination with the Ontario colleges.

The main responsibility to design curriculum, based upon the occupational standards as approved by the college of trades must include Ontario's colleges. Colleges have been successfully preparing students for the workforce for over 40 years and have the knowledge and expertise necessary to improve Ontario's apprenticeship system. Inclusion of Ontario college representatives will ensure strong and effective linkages between the college of trades and Ontario's 24 public colleges.

1550

In closing, we are supportive of Bill 183 and strongly recommend that our proposed changes are adopted by this committee. I believe the recommendations will make the legislation stronger and improve the apprenticeship system in Ontario. Thank you.

The Chair (Mr. Lorenzo Berardinetti): That leaves about two minutes per party, and this time we'll start with the Liberal Party. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you very much for your presentation. I have a couple of questions based on some of the suggestions you've made. The college has a balance provision included in its mandate. How would you adjust that balance provision to make sure that the concerns you're bringing forward are addressed? Also, I think there's been a variety of opinions on this issue, but what's been a common thread from all sides is that this is a complex issue. Some people have even said it's so complex it should be phased. You wouldn't want to do something that was unnecessary, so could you make the case again why it should be necessary to have a dedicated seat from the educational sector—and a complex issue, because obviously you don't want to make it more complex if it's not necessary.

Mr. Piero Cherubini: Correct. Well, I guess in our opinion, 20% of apprenticeship training in the way it's delivered now is theoretical or in-school-based. That's what we do; that's what we do well. The public colleges now deliver almost 90% of the in-school portion of the training in the province, so it's really our strong belief and based on practices of other boards of a similar nature that we would be at that table. I think our voice will add some value to the debate and discussions that are going on at the college.

Mr. Kevin Daniel Flynn: Just so I'm clear, right now there are five appointees who would be members of the public. You're saying it should be five plus one from the educational sector or do you get one of the five?

Mr. Piero Cherubini: Well, we're leaving that option up to you folks. We're okay with either option.

Mr. Kevin Daniel Flynn: Just as long as you get a seat.

Mr. Piero Cherubini: Or two. We'll leave that option open as well.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on, then, to Mr. Marchese.

Mr. Rosario Marchese: I suspect the government is going to support the current structure and it's not going to change it the way the OFL is suggesting, which I would have preferred. But I think you should be one of the five, so I'm assuming the government's going to make sure that you will be one of the five—

Mr. Piero Cherubini: Or two.

Mr. Rosario Marchese: —and I will support that. And if they put two, God bless.

The OFL says that we should change the name, and I happen to agree. They suggest Ontario trades and occupations standards board, because at the moment there's a confusion with existing professional colleges. In fact, it sounds like it could be a college called the college of trades, which might sound appealing to you, I suppose, but what do you think of the name change?

Mr. Piero Cherubini: To be honest with you, I hadn't given it any thought. When the notion was first announced, I'll tell you, many people in our school who aren't familiar with what we do in apprenticeship thought this was going to be a new college. So just from that, I would say that there is a potential of some misinterpretation of the name. If it deserves a better name, then yes.

Mr. Rosario Marchese: I think we should change the name.

The OFL makes another comment. A quick response if there's time.

"Our position is in keeping with the definition of apprenticeship as being at least two years in length, of which 80% to 90% consists of on-the-job learning under the supervision of qualified journeypersons and only 10% to 20% consists of in-class. For this reason, the Ontario Federation of Labour believes that only employers and joint apprenticeship committees should have the right to sponsor apprentices and opposes any move that would allow Ontario colleges of applied arts and technology to sponsor apprentices. If public or private colleges are allowed to sponsor apprentices, there will be a genuine risk that students would be recruited into high-tuition fee-based 'apprenticeship programs' that act as a revenue stream"—and I understand why you might do that, given the underfunding over the last 15 years—"by front-loading the in-class training, and then leaving it to the program graduates to find—or not find—employment." Your comment?

Mr. Piero Cherubini: We've had that debate at various college committees and levels. I can't speak for every college, but I can tell you that we've never taken the position that we should be registering or sponsoring apprentices at any committees I've been on.

Mr. Rosario Marchese: Grazie.

Mr. Piero Cherubini: I know you're going to tell me that my time is up; could I just take a moment? Mr. Marchese, you asked a question earlier around the failure rate. Could I have 30 seconds to address that, because I'm a little bit familiar with the auditor's report on that particular section?

The Chair (Mr. Lorenzo Berardinetti): We're pressed for time.

Mr. Piero Cherubini: I read really quickly so I could get to this.

The Chair (Mr. Lorenzo Berardinetti): I know.

Mr. Piero Cherubini: The auditor, when he was talking about failure rates and success rates—

Mr. Rosario Marchese: Completion rates.

Mr. Piero Cherubini: —completion rates; that's an important distinction, because the success rate of apprentices when they're attending the in-school portion of their training is about 90%, so apprentices do well when they come to school. The challenge around completion rates—I think he quoted a 50% pass rate—was on the C of Q exam, the final certification exam when they're finished their in-school and on-the-job training. I think that's sort of what he was pointing to in terms of some issues in the system. I just wanted to make sure that—

Mr. Rosario Marchese: And your point around that is?

Mr. Piero Cherubini: Well, I think we've got a lot of ideas around that, and I don't know how much time I've got left. But one thing we could do—

Mr. Rosario Marchese: Send them in.

Mr. Piero Cherubini: We will. Some other jurisdictions and provinces allow a little bit extra time in the in-school portion on their last level of training to do a little bit of preparation for their C of Q. That's one thing. We have many other ideas, but that might be one.

Mr. Rosario Marchese: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thanks for coming forward today. We're a bit behind, and so we're going to move quickly so that everyone has their 15 minutes.

ONTARIO INDUSTRIAL AND FINISHING SKILLS CENTRE

The Chair (Mr. Lorenzo Berardinetti): The next presentation is the Ontario Industrial and Finishing Skills Centre. Good afternoon and welcome. You know it's 15 minutes. Any time you don't use in your presentation I'm sure will be filled with questions from members of the committee. If you could identify yourself for Hansard.

Mr. Mike Carter: My name is Mike Carter. I'm training director of the Ontario Industrial and Finishing Skills Centre. I've held the position for many years, and I'm reasonably well knowledgeable about the many issues associated with the trades, apprenticeship and the entire process starting from the compulsory certification review through the fine work that was done by Kevin Whitaker.

With me today—I thought it may be appropriate for you folks to be exposed to a real apprentice. Touch him—he's real, and he's working in the trades, and luckily he volunteered this afternoon at about 1 o'clock to come here and present himself to you folks. The gentleman's name is Fernando Rodrigues. He's a glazier

from Mississauga, and he's in his first year of apprenticeship. So, if you have questions of him, please understand that he doesn't do this professionally, but I do thank him for agreeing to come here and meet you folks.

I'd like to thank you for inviting us to present to you today. We're quite appreciative of the opportunity to present our thoughts and ideas on, and the recommended changes we have to, Bill 183.

Who are we, and whom do we represent? We train and interact with market participants, employers, tradespeople, apprentices and their representatives in the three construction trades of commercial, institutional and residential painter; industrial painter; and architectural glass and metal technician, aka glazier—they are the people who put all the glass on all the beautiful buildings. We serve hundreds of painter and glazier apprentices and thousands of painter and glazier journeypeople across the province. The OIFSC is an industry-owned and -operated organization with locations in Toronto, Ottawa and Ancaster, and we receive substantial support and leadership from the industries we serve. We do have a unique position in that we are perhaps one of the few TDAs that actually operate in various locations across the province, so we do have that additional perspective. We are the sole TDA for apprentices in our trades in Ontario, and as such we train both unionized and non-unionized apprentices—equally well, we hope and believe.

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We are full participants in all the training programs associated with the trades—that includes pre-apprenticeship and WIST—and we faithfully use these programs, as is the intent from MTCU, to attract non-traditional persons into the trades. We've actually been fairly successful in doing that.

Additional to our apprenticeship and trades training obligations, we are full participants in the multiple PACs, LACs and various other committees across the province, almost exclusively in a resource role, and we think that is a very effective role for a training institution.

By formal association, we work very closely with the following organizations: the Ontario Painting Contractors Association, OPCA; the Architectural Glass and Metal Contractors' Association, AGMCA; and the Ontario council of the International Union of Painters and Allied Trades, IUPAT.

These organizations and ourselves have presented common ideas and recommendations via common reports to both the compulsory trades certification review and the college of trades review. For both reviews, we submitted formal reports, made formal presentations and attended various formal meetings. Unfortunately, due to previous commitments, my counterparts who have sat with me at other presentations were not able to be here today.

Our objective today is to actually provide you with some of our interpretation and assessment of Bill 183 and to make specific recommendations for changes to specific parts of the bill, and to engage you folks however you feel inclined for the time we have remaining.

Our overview statement: Previous to the publication of Bill 183, we were highly supportive of the college of

trades concept and were very actively engaged through the process. With the publication of Bill 183, while our enthusiasm is still very much for the college of trades, it has been tempered, hopefully only temporarily, by a few issues that we believe are in need of improvement. We believe that Bill 183 does a commendable job in articulating a college that will have the scale and scope, with the appropriate responsibilities and authority, to be successful over the long term.

To our specific points of interest: We will primarily focus on two issues, the primary issue being the role of apprentices within the college of trades, and the other being the role of the divisional boards and trade boards within the college of trades. There is a range of issues that could be commented on, but I think those are the two most important, from our perspective, that we would like to address.

As I heard and read the debates in the Legislature, and from my participation in the college of trades review, the compulsory certification review and various committees I sit on, and the ongoing interaction I have with apprentices and the employers and journeypeople with whom they work, I was expecting that Bill 183 would be, so to speak, a coming-out party for all apprentices in the province.

As you read Bill 183, you first come to section 11, which provides a very good description of the purpose of the college of trades. The description indicates that, with few exceptions, it has what I would consider to be a reasonably full scope of responsibility and authority, and the various aspects that are identified in section 11 go to the heart of what the college of trades should be.

As you read the bill, eventually you come to section 36, which defines who the members of the college of trades will actually be—the class of members. As I read it, it says:

“1. Journeypersons.

“2. Persons who employ journeypersons or who sponsor or employ apprentices.

“3. Such other classes of membership as may be prescribed by a board regulation.”

To my surprise, apprentices were not explicitly identified as being members of the college of trades. This exclusion is puzzling, to say the least, and, in my opinion, presents multiple and potentially very substantial and consequential risks, and could, depending upon how the future unfolds, prove detrimental to apprentices, journeypeople, employers and ultimately the markets they operate in.

We believe that apprentices actually should be members of the college of trades for many reasons, and their inclusion should formally be part of Bill 183. While Bill 183 certainly enables their inclusion in future, we believe, based on our knowledge and understanding of various issues of importance, that their inclusion in the bill is the most, and truly only, appropriate route to take.

We present now what we consider to be the most salient points for their inclusion.

Apprentices are full and consequential market participants from the time they sign their contracts of appren-

ticeship and the first day they go to work. This is a very simple, yet very powerful, reality that cannot be denied. They fill a very substantial role to their employers, who employ them; they fill a substantial economic role in the markets they participate in. The apprentices gain a broad range of economic and other benefits from their participation in these markets, in their trades and as apprentices. This journey from a day-one apprentice and all that goes with it to their gaining of full-status journey-person is an important, formal and structured journey by and between full participants of the trade, a company and an industry. This journey also tends to be long, typically stretching over three to five years.

This full and substantial market participation reality differentiates apprentices from prospective and entry-level participants in other environments. I have just copied something from the College of Teachers which basically defines how you become a teacher. Certification of teachers: You go to post-secondary school for three years, you complete a one-year acceptable teacher education program, and then you apply to the college for certification—a very different process. To become a teacher, you are basically not part of the industry, you are not part of the market, and you are not part of the profession until you have completed all of your education, unlike apprentices who from day one are actually very full and formal participants of the marketplace.

A quick review of the statistics on apprentices: The tradespeople, I believe, indicate there are about 115,000 apprentices in the province and maybe 450,000 to 500,000 journeypersons. They are a very substantial part of the marketplace and should not be denied their proper recognition within Bill 183. The process leading to Bill 183 provided us no substantial expectation of the probability that they would actually not be formally part of Bill 183.

From Tim Armstrong's report on compulsory certification on page 4, his recommendation is that, “Membership should include all apprentices and journeypersons, covered by the TQAA and ACA, as well as employer stakeholders.”

A notice of consultation dated October 24, 2008, stated, “On September 16, 2008, the Minister of Training, Colleges and Universities announced the intention of the government of Ontario to establish a ‘college of trades.’ In taking this step, the government has adopted the recommendations made by Tim Armstrong in his report dealing with the expansion of compulsory trade certification.”

Finally, in Kevin Whittaker's college of trades report, he says on page 73, “It is recommended that college of trades membership will include all who work in the trades and will begin by including all journeypersons and all employers of apprentices and journeypersons.” This recommendation made by Kevin Whittaker suggested very strongly to us that while perhaps they would not be initially part of the college of trades, potentially for implementation issues and potentially for a range of issues that are not fully described in his report, it made a

very explicit recommendation that all workers would be included in the college of trades.

The failure to formally include apprentices in Bill 183 creates a number of problems, one being it substitutes certainty for uncertainty: Without their inclusion, there's uncertainty whether they ever actually will be included. It substitutes less risk for more risk: Without inclusion, the risk is present that their membership, if it is eventually gained, will not be in a form or manner as could be so properly constructed today with the body of knowledge that has been accumulated to this point. It is a differentiation that will forever be present. This differentiation may prove in future to be inconsequential, it may prove to be a positive thing, or it may prove to be a negative thing, but it will forever be a point of differentiation.

It also creates some puzzling disconnects. For instance, does the promotion of the importance of apprenticeship by the college of trades become compromised by their explicit absence from the college of trades? I suggest that it does.

Will apprentices rightfully question their place and role within the trades? I suggest that they will.

Member-driven organizations exist primarily and in large part to benefit their members, and as the college will be a large, complex organization with substantial differences between existing members that will require substantial to perhaps all-encompassing attention, it may be that apprentices will never rise to the level of proper concern.

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As formal members within Bill 183, I believe they will be availed all their appropriate rights and benefits. Consequently, we would recommend that apprentices be formally recognized as members of the college of trades in Bill 183. If apprentices are best implemented into the college via a phasing-in process, that would be acceptable, but it should actually be well articulated. That is my main point.

Do I have time to carry on?

The Chair (Mr. Lorenzo Berardinetti): There are about two minutes left, so you can spend the two minutes still presenting, or we'd have that two minutes to use for questions. It's up to you if you want a few questions.

Mr. Mike Carter: I will quickly go on to two other issues: divisional boards and trade boards. There is, within the Bill 183 legislation, a restriction on the number of participants in both the divisional boards and trade boards. That creates two problems. I work on a number of PACs and LACs where the membership is 10 and 10 and 12. These are well-functioning committees. The problem you run into when you restrict membership on those boards to four is that it not only restricts the ability of broad groups of participants to have a proper voice, but it actually also creates risks of various measures related to that: Proper voices aren't heard, there are operational issues, I suspect quorum becomes an issue, but there is a broad range of issues that come into play. For smaller trades, it actually may be a stretch to find four members who would ever sit on one of those

boards, but I wouldn't suspect that that is what is present on a large number of boards.

The same issue comes into play with the divisional boards: If you restrict those boards to five persons, four of whom I think are members and one who is appointed from the board of governors, you run into that very same problem of representation, to the point that on the divisional boards with four-year terms, if you have an average number of trades per division of 40, you could potentially go 24 years and never actually be formally part of the divisional board, which I think creates some amount of risk that could be better handled. Our recommendation would be that you essentially either eliminate those provisions and leave the determination as to the size of the divisional and trade boards up to the board of governors, or that you eliminate the very prescription for an increase in range that allows for a broader range of members to participate.

We would also recommend—

The Chair (Mr. Lorenzo Berardinetti): Mr. Carter, I just wanted to let you know that your time is up. I'm going to let you just go on for 30 seconds or so if you need to just wrap up, because it has been 15 minutes, actually.

Mr. Mike Carter: Okay. Has it really? Time flies.

The Chair (Mr. Lorenzo Berardinetti): It goes fast, I know.

Mr. Mike Carter: That's it. That's all the time we have.

The Chair (Mr. Lorenzo Berardinetti): I just want to consider the other deputants. There are at least three more after you and they've made time to come here as well, and we're running a bit behind already. They want to present as well, so I'm just trying to be fair to everybody; that's all.

With the committee's indulgence, if you want to—I don't know—

Mr. David Zimmer: No, stick to the schedule.

The Chair (Mr. Lorenzo Berardinetti): Any comments?

Mr. Kevin Daniel Flynn: I have a very brief question, if the other members—

The Chair (Mr. Lorenzo Berardinetti): No. It requires unanimous—

Mr. Kevin Daniel Flynn: I have a very brief question, if you do—

Mr. Rosario Marchese: I would rather do that.

The Chair (Mr. Lorenzo Berardinetti): No, if we do that, then we have to allow all groups.

Interjections.

The Chair (Mr. Lorenzo Berardinetti): You can always submit something further in writing to the committee. The committee clerk can assist you with that in terms of sending something in to the committee, because we're going to still meet in the future and consider this bill. But we have to move on because there are other presenters and I just want to make sure that they get heard today.

Mr. Mike Carter: Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much, and thank you to the apprentice for coming out as well.

ONTARIO HOME BUILDERS' ASSOCIATION

The Chair (Mr. Lorenzo Berardinetti): The next deputation is the Ontario Home Builders' Association.

Mr. James Bazely: Mr. Chair, members of the committee, good afternoon.

The Chair (Mr. Lorenzo Berardinetti): Good afternoon; welcome.

Mr. James Bazely: My name is James Bazely and I am the incoming president of the Ontario Home Builders' Association. I've also served as president of the Greater Barrie Home Builders Association and I've been involved in the residential construction industry for over two decades. I am currently the president of Gregor Homes. We're a home builder/renovator located in Barrie.

Let me begin by thanking you for today's opportunity and by telling you a little about OHBA. The Ontario Home Builders' Association, OHBA, is the voice of the residential construction industry and includes 4,200 member companies organized into 29 local associations across the province. Our industry contributed over \$37 billion to the province's economy last year while providing 365,000 person-years of employment.

On behalf of the Ontario Home Builders' Association, I would like to offer our position on this important legislation.

The current regulatory system governing apprenticeship and training across the province is not perfect. There are numerous challenges we face, such as labour shortages in some trades. These shortages are the result of several factors, including:

- the negative public perception of a career in construction;
- interprovincial trade mobility issues;
- an aging workforce; and
- the rigid system of apprenticeship training, where there is currently a 3-to-1 journeyperson-to-apprentice ratio in many of the trades, such as plumbers, electricians and sheet metal workers.

OHBA has participated in the two previous consultation forums, first under Tim Armstrong, in his review of compulsory certification, and secondly, under Kevin Whitaker, where OHBA provided a written and oral submission to the implementation adviser.

In both consultation periods, OHBA stressed the need for increases in labour mobility and for flexibility in the system. We pointed out that the approvals process in residential construction is very onerous, and any increases in compulsory certified trades will raise the cost of labour, therefore threatening housing affordability.

Changes to the current regime are welcome. However, Bill 183, which has now passed second reading, represents a potentially serious problem for the provincial

residential construction industry. We believe that the current legislation is seriously flawed.

I will now outline three of OHBA's main criticisms and I'd be happy to answer any questions once I'm finished.

First, it appears that the Ontario College of Trades bureaucracy as set out in the legislation is far too politicized to be effective or fair. We have serious concerns about the appointments council, which will be responsible for appointments to the board of governors, the divisional boards, trade boards and the roster of adjudicators. The nine individuals that the Ministry of Training, Colleges and Universities appoints to the appointments council will have the ability to appoint members to the boards and will therefore affect the orientation of the entire college structure.

The terms of reference for the appointments council include some positive goals, such as considering diversity when making appointments to the various boards and committees. But it remains impossible to ensure how the appointments council will function, given how little representation exists in the divisional and trade boards and given the centralized nature of the institution. The ministry appointments will need to be transparent and accountable to all stakeholders.

Second, the Ontario College of Trades does not adequately consider the significant differences in labour geography. Outside the few major cities in the province, it is not unusual that tradespeople do a wide variety of work to ensure their ability to earn a livelihood. For example, a certified carpenter in Quinte may also do other tasks, such as installing siding or roofing. However, this legislation does not recognize these provincial differences. It is a far too centralized system of regulation across the province. Both the divisional boards and the trade boards are too small to consider the diversity of employer-employee relations. This diversity includes union versus non-union; small employers versus large employers; and rural versus urban employment situations across the province.

OHBA is especially concerned about the trade boards. Under the proposed system, there is a significant risk of unions trying to force non-union trades not in the GTA to become unionized by means of increases in compulsory certification.

In OHBA's submission to Kevin Whitaker, we stressed that "merely balancing business and labour does not capture the diversity that exists when we compare unionized to non-unionized businesses." However, this legislation does not capture this diversity. We are concerned that instead there will be a permanent minority of non-unionized employer groups on the board which may be outvoted on many important matters by unions and union-based employer groups.

Third are the risks of trade-wide compulsory certification, which threatens the more flexible system of labour supply in the residential construction sector. As I said earlier, the carpenter in Quinte or Brantford needs to also work on roofs and siding to make a living. With the

exception of highly skilled and specialized trades, such as plumbers and electricians, most training takes place on the job site and allows for a unique and flexible style of labour mobility.

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The residential construction industry operates under one of the most onerous regulatory frameworks in the province. Unlike many industries, all new houses in the province must be enrolled by the Tarion Warranty Corp. This ensures a level of quality through the construction performance guidelines and the pre-delivery inspection process for all new homes. Furthermore, new homes are covered by warranty to ensure a high level of quality and consumer protection.

At the forefront of all decisions on the board should be implementation adviser Tim Armstrong's principle to "ensure that Ontario's apprenticeship and certification system continues to meet proper safety standards, provides value to consumers and serves the needs of the province's growing economy."

We remain concerned that the college of trades does not and will not reflect the flexibility of the residential construction sector, and in this way the college does not serve the interests of Ontario's residential construction employers or workers. While we remain positive about any anticipated reforms in the overly restrictive journey-person-to-apprentice ratios, we see the larger bureaucracy that this legislation creates as overshadowing any gains we might see in the ratio system.

This legislation is a big project which will have long-term effects on how labour is trained and provided throughout Ontario. We must continue to make adjustments in order to get it right. OHBA would be happy to contribute to any further discussion of the board.

Thank you

The Chair (Mr. Lorenzo Berardinetti): Thank you. That leaves about six minutes for questions, two minutes per party. We'll start with Mr. Bailey.

Mr. Robert Bailey: Thank you for your presentation, Mr. Bazely. We've covered a number of different issues today through different deputations. There's one that you touched on that I heard about, and in my time I'd like you to explain how the 3-to-1 ratio affects the homebuilders and your apprentices, or the lack of apprentices, lack of journeymen.

Mr. James Bazely: Yes, certainly. It causes some problems at times. I can speak from my experience. I own a business. We typically construct about 50 homes a year. We typically work with one plumbing contractor. He knows our system. He works with our customers; they make their selections with this individual and his company. When the boom is on, when we're very busy, he may need extra help in the homes running pipe and whatnot, and he's restricted to the 3-to-1. That's tough for him because now he's got to try and find more journeymen to cover the apprentices, driving his costs up, driving my costs up and making the cost of the house more expensive.

Mr. Robert Bailey: A couple of presenters ago, they talked about this new college, a tripartite membership where you'd have management and actual people like you who are affected by the outcome. Would you support something like that if we moved towards this—they'd have equal membership?

Mr. James Bazely: To be honest, I'm not sure I understand the question.

Mr. Rosario Marchese: Employers, employees, unions and government members, an equal number of them; that's what the OFL was recommending.

Mr. Robert Bailey: Yes, they talked about that a little earlier.

Mr. James Bazely: To put it bluntly, that would be better than the devil I don't know, certainly.

Mr. Robert Bailey: Yes, okay. That's fine. Thanks.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Marchese, go ahead.

Mr. Rosario Marchese: James, you're opposing this bill, are you, very clearly; right?

Mr. James Bazely: I am, very clearly.

Mr. Rosario Marchese: I just wanted to be clear.

Mr. James Bazely: Okay.

Mr. Rosario Marchese: You're also worried that there would be an increase in compulsory certified trades because that would lead to increased costs.

Mr. James Bazely: Absolutely.

Mr. Rosario Marchese: You're not worried about safety issues, because you're saying people learn on the job and it's just fine. It's not a big deal, other than electrical and plumbing, I think you mentioned.

Mr. James Bazely: Sheet metal workers, yes.

Mr. Rosario Marchese: Everything else you can learn on the job and it's not such a big deal with respect to issues of safety.

Mr. James Bazely: Yes. OHBA has a very stringent and active health and safety committee. Obviously the Ministry of Labour is responsible for making sure that we operate in a safe manner and do regular audits on our job site.

I can speak personally again. I retain the services of a health and safety consultant who does job-site audits; I pay him to do that. He does my training with all my employees and all my trades. They need to be certified in certain aspects of the job before they're allowed to work on my site. I believe, for all intents and purposes, that most responsible constructors, contractors, homebuilders use the same methodology.

Mr. Rosario Marchese: I don't feel as sure as you do on this, James, but—

Mr. James Bazely: Quite often, it's the underground economy, the not-professional, not-full-time employers and contractors who are embarking on unsafe types of construction. The Ministry of Labour keeps a sharp eye on us.

Mr. Rosario Marchese: I'm sure they do.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Flynn?

Mr. Kevin Daniel Flynn: Thank you for your presentation. It was appreciated.

There's nothing in the bill that I see that says that any trade has to be certified, but what seems to have been a concern over the years, through a variety of governments and over the past decade, as I think somebody said today, is that the way a decision is made as to whether that trade should be certified or not is not fairly applied in any way. There's no formal way of deciding that. The intent of the college is to formalize that decision so it's something that employers would have input on and it would be a system you could rely on.

It seemed to me that if a trade is licensed in one part of the province, it's licensed in the other part of the province. It doesn't matter if you're in the city or if you're out by the rural areas.

Are you opposed to the concept of the college or are you opposed to the way it's being proposed?

Mr. James Bazely: I think our opposition lies in the uncertainty and the potential for the unions to have a large vote within the governance board. Understanding the diversity of our type of industry—and I'll be quite frank: This morning I was sitting on an excavator, working on the front of a large renovation that we're doing, and tomorrow I may be helping my landscape crew carry brick or pipes down the basement to the plumber. We need to remain diversified. In order for me to continue employing the amount of people I do, we have to be diversified and flexible.

My fear is that there will be too much regulatory and mandatory certification, where my carpenter can't now go out and help lay sod—because it's Friday afternoon and sod has to go down and get watered—and he would be saying, "Sorry, that's not my trade; that's not my responsibility."

Mr. Kevin Daniel Flynn: My colleagues have some short questions, but if we were able to convince you that this process is balanced, that you won't get everything you want but you'll be in a fair and balanced process, would that change your mind at all?

Mr. James Bazely: Absolutely.

Mr. Kevin Daniel Flynn: Thank you.

Interjections.

The Chair (Mr. Lorenzo Berardinetti): I'm trying to stick with the schedule, so one quick question.

Interjections.

The Chair (Mr. Lorenzo Berardinetti): One quick question, Mr. Leal, then we have to move on.

Mr. Jeff Leal: Thanks very much, Mr. Chair. Through to Mr. Bazely, one of the principles up front is that the college of trades would initially set the ratios and then, under section 60, it would be reviewed every four years to reflect, perhaps, changing conditions. How do you feel about that as a mechanism? I mean, you have identified ratios as a challenge. It's certainly been identified to me in my riding of Peterborough over the last number of years. How do you feel about that as a mechanism, setting aside other parts of the bill at this time?

Mr. James Bazely: I'd like to defer that to Stephen, an OHBA staff member, if you don't mind.

Mr. Jeff Leal: Because there's really no mechanism in place now to deal with this.

Mr. Stephen Hamilton: So the question, very specifically, is, would we be satisfied with a four-year review? I mean—

Mr. Jeff Leal: The college setting the ratios initially, and then every four years, under section 60, review it.

Mr. Stephen Hamilton: No. We think that's—

The Chair (Mr. Lorenzo Berardinetti): Could you identify who you are for Hansard?

Mr. Stephen Hamilton: Sorry, Stephen Hamilton, and I'm with OHBA.

No—certainly we welcome an expedited process in terms of changing the ratio system. We definitely would be in favour of those changes, yes.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That takes up all our time, unfortunately, but thank you for that. I'm going to have to move on to our next deputation, because there are some people who have come. Some come from out of town and they want to be heard, and I want to be fair to everybody, but thank you for your very thorough presentation.

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SUE ALLEN

The Chair (Mr. Lorenzo Berardinetti): The next presentation is Sue Allen. Good afternoon and welcome.

Ms. Sue Allen: Thank you. I'll just get my water jug ready. I think I'm coming down with a cold.

The Chair (Mr. Lorenzo Berardinetti): There are some glasses there, too.

Ms. Sue Allen: Thank you.

To the honourable Chair and clerk and to the committee members, thank you for inviting me to share some of my thoughts on Bill 183. My name is Sue Allen. I'm here today in the capacity of an independent skills developer and consultant.

I've read with great interest the flow of debate regarding this bill, including ratios, multi-crafting, compulsory trades system overhaul and how statistics are generated. While acknowledging that each of those are important points in their own right, I would like to point a focused beam on some of Honourable Minister Milloy's words and speak directly to the potential of Bill 183 and the opportunity it could present.

The honourable minister stated on record that, "The principle behind the college is very much about giving the skilled trades ownership, in a sense, of many of the policy questions and finding solutions to many of the challenges that come before them."

In 2004, the Canadian Apprenticeship Forum published a comprehensive report entitled *Accessing and Completing Apprenticeship Training in Canada*.

Of special interest to me was a summary report specific to women entitled *Perceptions of Barriers Experienced by Women*. This report concluded, after sig-

nificant community stakeholder involvement and comprehensive study, that of the nine most commonly perceived barriers, there was consensus that at least seven of those barriers applied directly to women.

After years of frustration just trying to get the concept of inequity and barriers to the table, after the Mike Harris funding cuts which meant the demolition of so many of the grassroots inroads and infrastructure that women had been working so hard to create, here finally was a report that acknowledged a number of barriers that needed to be dealt with and that women were one of a number of marginalized groups.

Some of the barriers identified in that report include negative attitudes toward the trades by young people, parents, employers and counsellors; a lack of informal networks—women don't often have an uncle, a friend, a brother who can say, "I'll hook you up with an apprenticeship down at the corner garage or at my dealership"; unwelcoming and unsafe work environments; financial barriers for women, especially single mothers and primary caregivers; an apprenticeship training model that is based on an implicit pedagogy that takes men's learning patterns for granted and is not tailored for women.

The report suggested that this barrier could be offset by effectively recruiting women as trade instructors and that male instructors need to be given support to diversify their teaching methods. Equally, the establishment of training centres specifically for women were recommended.

I remember a time in this city when you could pull in or out of almost any subway stop and see pictures of women working in the trades. The posters were hung on the pillars and on the platform walls. There were also giant billboards downtown, and it was in large part these images of women that had slowly started to creep into the public psyche and had begun to normalize the notion for both men and women that the trades were a viable option for women of all ages. We were making progress. Support groups for women, both provincially and nationally, were flourishing.

Women are still recovering from that government's decisions.

To have supporting documentation that said, without apology or hesitation, that women and men have different lived experiences, especially in relationship to the skilled trades, was a gift to every front-line equity worker and to every woman in the trades.

I've been a proud tradeswoman for over 20 years. I started out as a tractor-trailer driver and became a fleet driver trainer and a commercial driver trainer and examiner. I taught people how to drive big rigs at Humber College's transportation training centre and tested them for their class A licence. Let me assure you that a mobile classroom is like no other, especially when it's almost 70 feet long, 13 and a half feet high and about 10 feet wide and it moves.

I also did a long stint in film and television where I became the first woman voted into IATSE 873's transportation category, which, believe it or not, as I was told

in 1999, was the last local in the world without a woman in the transportation category. The in-joke was that Sue had gone through the glass windshield.

I've also had the honour of becoming the first woman head driver and first driver captain in that union, even before I had my union membership card in my hand, and of course I got to work with some really wonderful people along the way. I've also been a role model, mentor, coach, coordinator and facilitator and have worked extensively with the apprenticeship system and skills development training, primarily in the motive power sector.

So it is from a place of deep knowing that I tell you that while barriers may be perceived, they are indeed very real for women. You see, I never thought there was anything weird about wanting to drive a tractor-trailer until, at my first place of employment, I had another driver threaten to kill me. Certainly, when I had three tractor-trailers surround my rig and try and ease me off the road at highway speed, I knew something was wrong. I was just trying to make it home from Quebec on the 401 on the middle of the night, bothering no one in the slow lane.

It is therefore also from a place of deep knowing that I tell you that I have spent many years knocking on the door of the skilled trades hoping to make something about the skilled trades mine other than the struggle. Thankfully, over time, I have, both professionally and personally; however, the reality of the skilled trades at large when you cut to the chase is that women are still not welcome—not really. No matter how many women may enter the field, the game, by and large, still belongs to men and to a system that allows inequity to flourish and barriers to stand.

The creation of Bill 183 has the potential, if it becomes law, to act as a new starting point and also as a testament to how far we have come in understanding the truth and severity of women's experience and the barriers we still face. Only when infrastructure and intent are congruent can we create access to meaningful opportunity. Therefore, giving the skilled trades ownership means very different things to different people. While pouring money into the skilled trades is a necessity, it's also just the beginning of the long journey towards levelling the playing field. We know that changing the behaviours and patterns so deeply ingrained in the psyche of the trades arena and in the many and varied service systems that support the trades will take a commitment to education, to equity and to diversity. With committed, vital and strong leadership and with proper guidance, the creation of the Ontario College of Trades has an opportunity to make significant and lasting change. The college of trades has an opportunity to set an example and give an injection of life into the arm of equity, which, for so long, has been about government's empty promises, other debated and discarded bills, and the continuation of the status quo.

If an employee walked into a shop and slipped and hurt themselves on a spot of grease, that spot of grease would be cleaned up, the source identified and the prob-

lem rectified. It's called due diligence. It wouldn't be left for the next person to have the same mishap with. Articulating and addressing barriers so deeply encoded in the trades and in the systems that support the trades is infinitely different to pointing to a grease spot on the floor, even though the potential for harm is just as prevalent.

If we take an abbreviated journey back through time, we will find that women gathered wood for fire, sharpened spears and created communities, with or without babies on our hips. I'm also pretty confident that women had something to do with the first wheel turning; I think we were there. When fences needed to be built and ground needed to be ready, seeds needed to be planted and crops demanded harvest, women were there. We've always done the work, and this is something that women, over time, have forgotten because we've actively been invited not to remember.

The first wave of suffragist women organized and mobilized while the world still thought we were holding literary club meetings. During World War I, 30,000 women worked in munitions factories; thousands more were employed in the civil service, banks, factories and on farms; and 1,000 women were employed by the Royal Air Force as truck drivers, mechanics and as ambulance drivers.

World War II saw more than 45,000 women volunteer for military service. In the Royal Air Force alone, the women's division created in 1941 had 17,000 women enlisted by 1945; 21,000 women served in the Women's Army Corps and the WRENS or the Women's Royal Canadian Naval Service. At war's end, women comprised 1.5% of those still active on the front lines.

We also know that women were actively legislated out of male jobs and back into the home by virtue of the post-War Measures Act—that's some kind of thank you. From that point forward, every decade brought with it a new household appliance designed to make the home a place where not just any but every woman would want to be. The 1940s gave us the first automatic washing machine for the home, the 1950s gave us the clothes dryer and the 1960s provided the first affordable dishwasher, and of course our cultural and systemic priorities have flowed from this reality.

The Ontario College of Trades, just like the rest of us, needs to be prepared to lead in order to answer many challenging questions, not the least of which is, "If, historically, tens of thousands of women have answered the call when the country needed us most, how is it now, when the skilled trades shortage we've been talking about for years is now totally upon us and will only get worse before it gets better, that women still only represent roughly 3% of the entire transportation sector and 8% across all the trades, give or take some percentage points, depending on who is generating your statistics? Why is that, and where are the women now?"

1640

We know that skilled trades play a major role in the prosperity of our economy. Just take a look around this

room. We owe so much to the skilled trades. Pretty much everything in this room exists because of the skilled trades, not to mention the building itself.

We also know that women must play a vital role in the prosperity of our economy. We can't afford to turn away from the largest and most accessible labour force pool in our province, in Canada and indeed in the world.

So here's where the rubber really meets the road. Stakeholders know we can no longer afford to remain status quo, no matter how much some would like that reality still to remain. You see, the lack of women in the skilled trades is no longer just about equity; it's now a socioeconomic problem where, if we don't address it head-on, everyone loses.

Bill 183 is very clear in its intent to reach out to marginalized groups, including women, francophones, aboriginals, visible minorities and people living with disabilities. The current government isn't just "doing the right thing"; this government knows that we need to find a bigger labour pool in order for the economy to survive and indeed thrive. The big question is how, and specifically in the case of women, how do we turn back or redirect the tide of 60-plus years of the division of labour by gender stereotyping?

I can't tell you the level of my frustration when I work with some service providers who, while their hearts may be in the right place, are running around putting signs up in their offices and in public places about how much money women will make in the trades, when in reality the signs aren't accurate because the service providers don't understand wage progressions or don't share all the information with their clients.

The business of skills development and how to bring marginalized groups into the skilled trades has indeed become big business, and lots of people do more harm than good and they want to hang out their shingle.

The Ontario College of Trades will have a daunting task in figuring out how to create meaningful invitations and opportunities that truly speak to marginalized groups. But it will have help if it asks, if we are truly invited in.

I've seen in earlier debates that the creation of another ministry was suggested. Truth be told, looking out from within the skilled trades and the training world, the work that needs to be done on both the macro and the micro level, in my opinion, requires a bold new starting point, and the creation of the Ontario College of Trades can potentially be just that.

In 2009, when employers still struggle with where to put the women's washrooms and change rooms, and where most environments, both ergonomically and socially, still mirror and favour men, the creation of a new governing body to help share the load, one which is willing to listen to those of us who historically have rarely been asked—as evidenced by Mr. Whitaker's travels and my presence here today—is such a welcome breath of fresh air. We all want and deserve to work in a safe and enriching environment, no matter our chosen field. We all deserve to feel pride in our work and have that pride reflected back in our work environment.

It's time we celebrated and seized upon Bill 183 as a living, evolving next step in the journey toward levelling the playing field for women in the skilled trades. It's time to welcome the creation of a new, evolving and living form of governance which, for those of us who have been living inside a system with broken wings, will give those of us who know what it will take from the inside out a real opportunity to create, maintain and make lasting change fly.

Our ability to promote, recruit, train and successfully retain women and other marginalized groups to the skilled trades requires a systems overhaul, and I, for one, would like to start with good company and with a clean slate.

The Chair (Mr. Lorenzo Berardinetti): Ms. Allen, you have just under a minute left.

Ms. Sue Allen: I'm two paragraphs away.

The Chair (Mr. Lorenzo Berardinetti): Okay.

Ms. Sue Allen: The active participation of women in the skilled trades means not only putting a major dent in the labour market shortage, but it also represents a key building block for poverty reduction and of course another step toward equity.

If we are truly interested in building a vibrant economy, creating healthier and stronger communities, and providing future generations with meaningful and enriching opportunity, then it's time we embraced the work of making infrastructure and intent congruent.

The future of our economy and of our province has a unique and real opportunity with Bill 183 and the creation of the Ontario College of Trades. What we do with it, and who is invited to participate, remains to be seen. Socioeconomic change is everyone's work, everyone's responsibility and will require that we all work together.

I am daring to believe that change is still possible, and want to thank each of you for the chance to bring my voice, a woman's voice, to the table and to this debate.

Thank you all very much.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much, on behalf of all present. It was a very good presentation. Our time has been used up on your presentation, so there are no questions, but I want to thank you again for coming out today.

PROVINCIAL ADVISORY COMMITTEE FOR THE POWERLINE TECHNICIAN TRADE

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next deputation, the Provincial Advisory Committee for the Powerline Technician Trade.

Mr. Kevin Daniel Flynn: Mr. Chair, before you go on, we should note that the bill calls for a chief diversity officer. I don't think that position has been filled yet.

Interjection.

Mr. Bill Smeaton: Good afternoon, everyone.

The Chair (Mr. Lorenzo Berardinetti): Good afternoon.

Mr. Bill Smeaton: Thank you for this opportunity. My name is Bill Smeaton. I'm the chairperson for the powerline technician provincial advisory committee.

Unlike one of our earlier speakers, I do know why this room is getting to be empty, and I'll try to keep this straight and to the point of our concerns and then welcome any questions.

Just a quick background on myself: I started in the trade as a powerline maintainer with Ontario Hydro. I spent a few years looking after the lines apprenticeship training for both Hydro One and the MEARIE Group, and I'm presently customer operations manager with Hydro One in the Newmarket area.

Just to begin, the powerline technician, for those who aren't familiar with it, is a voluntary trade within the province, with red seal certification internationally.

After review of Bill 183, it was the understanding of the PAC that the PAC would continue until the trade board was in place. However, the committee was wondering about the timing of this transition, since the college will be operational in 2012. When we looked through the presentation from the technical briefing, back in June I believe it was, our understanding was that provincial advisory committees would stay in place until the trade boards were formed, but then there was some conflict—some people thought that PACs were actually going to be phased out very early in this process. The reason we're concerned about that is that our provincial advisory committee for many years now has been dealing with the two issues, which seem to be key here, that the board is going to take on: compulsory certification and the ratios.

We presently have a letter submitted to the government through the MTCU with regard to compulsory certification. The provincial advisory committee has always pushed forward for that, with some very significant concerns: grandfathering, which the government in the past has never been in favour of, with compulsory certification.

There are also subtrades that we have working in the environment. We have protection and control groups and station maintenance groups, which all do work for which some of the tasks fall under the powerline technician trade. So there are the workarounds and the question of how these people still do their work if those tasks are identified in the occupational analysis as falling under the trade.

The issue of ratios, and compulsory certification as well, with the Agreement on International Trade becoming a big issue here: Even though we're a red-seal-certified trade, we're already hearing that the province is going to bring back a provincial certification for people coming from outside Ontario who aren't red-seal-certified. Because the province they're coming from may not be, the province is going to get back into issuing Ontario tickets, which is totally—there's a long history behind why we went red seal.

Saying that, the PAC is hoping that, if nothing else, there can be huge consideration of the membership of the

appointments council, or trying to keep these provincial advisory committees in effect until the transition period is completed.

1650

The other issue, the ratios, we've been dealing with that. It's a very difficult thing to take on for our trade, mainly with the broad diversity in the province of Ontario and the different types of work. Some companies we've seen manage large apprentice crews handling big projects with great success. There are other types of work in different stages of apprenticeship training where you almost need a one-to-one ratio. It's a tough one to put a handle on.

Another concern is we have the Green Energy Act coming into play. There's a lot of work that could come in under the Green Energy Act where some of these large apprentice-type crews would work very well, greenfield-type construction. Again, the provincial advisory committee has been dealing with those two big issues, and we feel that if they continue through the transition, it would provide the college with strong resources at arm's length.

There is also concern among committee members that the proposed number of members at the trade board level would not provide adequate trade representation. We feel that in order to fully represent employee, employer and unions within Ontario membership at this level—the provincial advisory committee right now has membership anywhere from 10 to 12, and we're still thinking of a membership of seven to 10 to cover all the diversity in the province.

Due to the vast diversity in electricity distribution in the province of Ontario and keeping public and worker safety of the utmost importance, the committee is also recommending that there be consideration into representation at the divisional board level. There's a lot of concern with the construction sector being so large. You're going to have a lot of large trades, especially trades that have a significant impact on public safety and worker safety. They're all going to be trying to get the seats at that divisional board level. There isn't room for them all. You'll have a divisional board potentially making decisions, and we could have absolutely no representation from our trade group at that level. I know our trade wouldn't be the only one with that concern.

The last thing: The PAC is asking for some clarification on the application process for nominees to the board levels. There hasn't been a whole lot of information sent out on what the process is going to be to put forward nominations towards the trade board levels as well as the roster of adjudicators, those types of things.

With that, I'll close and welcome any questions.

The Chair (Mr. Lorenzo Berardinetti): We have just over two minutes per party. We'll start with the Liberal Party. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you very much, Bill. I really appreciate the presentation. What I got out of it was—if I could summarize it, and you can tell me if I've got the tone of it or not—that you're not opposed to the college of trades, but you've got some work in progress.

Mr. Bill Smeaton: That's correct.

Mr. Kevin Daniel Flynn: You're wondering about the status of that work in progress, and you want that clarified.

Mr. Bill Smeaton: That's correct. We're not opposed to the college; we have some concerns with the makeup of the college. We also have concerns if the PACs are phased out too early in this process. We feel there could be some errors made.

Mr. Kevin Daniel Flynn: I think they're fair concerns.

The Chair (Mr. Lorenzo Berardinetti): Mr. Bailey.

Mr. Robert Bailey: Thank you, Mr. Smeaton, for your presentation today. In the short time we have, could you just touch upon how the diversity of the province, specifically your trade, is affected? Compared to Sarnia-Lambton, where I come from up in the north, what are you faced with?

Mr. Bill Smeaton: The concern is, or my interpretation of it, when we talk about ratios, apprentice-type crews, the employer being handcuffed too much and how they're going to manage the employee-to-worker ratios, you have some areas—southwestern Ontario—where there could be a lot of new construction with some of the wind generation farms. If you're not in proximity to live lines, we can put large numbers of apprentices with fewer numbers of journeymen. You get into your heavier urban settings, and you can't do it. With the live-line atmosphere, now we're back to more one-to-one. Our concern is if we don't have the proper representation from the appointments councils to these divisional boards, those points could be missed.

The Chair (Mr. Lorenzo Berardinetti): Mr. Marchese, do you have any questions?

Mr. Rosario Marchese: Yes. Thank you, Bill. The issue of the application process for nominees is something that almost every other group has talked about or at least has raised in their submissions. There is no clarity in that regard. Everybody is concerned. I'm not sure we're going to get anyone from the government to actually speak about that. I'm assuming they'll say, "Well, it'll come later." But there is no clarity, and we are equally concerned about that.

You raise a good point about representation. The colleges were all speaking to that, and it's true that a lot of smaller organizations might be shut out. I don't know how you deal with that. That's why in the model that the OFL was suggesting, where you've got employers and you've got unions and you've got government, there would be an overall representation of everyone. One assumes that everyone would be represented in that way, but when you broke it down in this model, then everybody says, "Gee, I'm not in it; therefore, I'm not going to be represented." It's a serious concern. In this kind of model, I don't know how you'd deal with that.

With the five appointments by the government, you don't know who's going to be there, so that's another problemo.

The point you raised around the whole issue of provincial advisory committees, I think the government needs to look at that because, depending on what progresses or how it progresses, there's a role for those committees to perhaps continue doing work that might be useful in the interim. That was a good point that you raised. Thank you so much.

Mr. Bill Smeaton: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation. That completes today's agenda.

Mr. Bill Smeaton: I'm sorry; there was just one thing that did come to mind. I had a phone call today from a few members. It was spoken to earlier today, and that

was the issue of apprentices being excluded from the college. That has been raised as an issue with the provincial advisory committee. From my background with the training department, I can see some reasons it may have happened, and that would be that the MTCU is where your funding is coming from to the training delivery agencies. It might be a big one to take on to change that whole structure.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We appreciate your comments. This committee's now adjourned until 9 a.m. next Thursday. Thank you everybody.

The committee adjourned at 1656.

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Official Report of Debates (Hansard)

Thursday 24 September 2009

Journal des débats (Hansard)

Jeudi 24 septembre 2009

Standing Committee on Justice Policy

Ontario College of Trades
and Apprenticeship Act, 2009

Comité permanent de la justice

Loi de 2009 sur l'Ordre des métiers
de l'Ontario et l'apprentissage

Chair: Lorenzo Berardinetti
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 24 September 2009

Jeudi 24 septembre 2009

*The committee met at 0901 in room 151.*ONTARIO COLLEGE OF TRADES
AND APPRENTICESHIP ACT, 2009LOI DE 2009 SUR L'ORDRE DES MÉTIERS
DE L'ONTARIO ET L'APPRENTISSAGE

Consideration of Bill 183, An Act to revise and modernize the law related to apprenticeship training and trades qualifications and to establish the Ontario College of Trades / Projet de loi 183, Loi visant à réviser et à moderniser le droit relatif à la formation en apprentissage et aux qualifications professionnelles et à créer l'Ordre des métiers de l'Ontario.

ONTARIO ASSOCIATION OF
CERTIFIED ENGINEERING TECHNICIANS
AND TECHNOLOGISTS

The Chair (Mr. Lorenzo Berardinetti): Good morning and welcome, everybody, to the Standing Committee on Justice Policy. I'd like to call the meeting to order. We're on a bit of a tight schedule because we have to break at 10:30 for question period and we've got quite a few deputations this morning, so we'll start right away with our first delegation for 9 o'clock, the Ontario Association of Certified Engineering Technicians and Technologists.

Welcome to our committee. You have 15 minutes. Any time that you don't use will be set aside for questions from members of the three different parties that are here today. You may begin your presentation.

Mr. Ron Walker: Thank you very much for allowing us to speak to you today about this important piece of legislation.

I'm Ron Walker. I'm a certified engineering technician and technologist. I'm an elected member to OACETT's board of governors, their council. I'm also a faculty member, teaching technology subjects to technical students, at Sir Sanford Fleming College in Peterborough, Ontario.

OACETT certifies graduates of the colleges. We've been doing it for 52 years now, by provincial statute. Virtually every college in the province graduates technical students, and these students seek certification with OACETT because they see the value of that certification and it helps them to truly believe that they are the

professionals they are. This is a profession to us. The colleges are obviously supported heavily by the taxpayers of Ontario to create these graduates, and they enter the workforce doing multitudes of tasks, some of which overlap other skill sets.

Also, in Ontario, OACETT certifies internationally trained professionals who come here and seek OACETT to measure their credentials and ensure that they are equated to the credentials in Ontario so that they can enter the workforce at an appropriate level and more quickly. About 70% of our current membership growth is internationally trained professionals.

We have industry partners who have been working with us. At the table today with me are Randy Topp from Direct Energy, Theo Breimer from Schneider Electric, Ralph Palumbo from Pathways. Also in the room, we have Paul Anis from Sinotech; we have David Tsang, past president of OACETT; David Thomson, the executive director of OACETT; Alla Bondarenko is here from OACETT staff. Working with us, but not able to be here today, are Marcus Johnson from Siemens Canada, Kevin Cosgrey from Direct Energy, and Charles Frey from Honeywell. They've been working with us for about two years now on the piece of legislation that was changed, that was outlined in the documents that we provided for you previously.

The legislation concerns the industry because it limits our members' ability to do work that they've been highly trained to do and have performed for years, and are skilled to do, and are uniquely qualified to do in an area of overlapping interest with a skilled trade. Technicians and technologists, in general, are trained for two or three years to do tasks that, in the electrical field, are more testing, diagnostic, troubleshooting and repair. It's in those kinds of areas—commissioning and designing new systems, as well—that we're concerned that unique skill set may not be able to be applied if this kind of legislation continues to be created. The example we put in the paper is one example. Other examples may come up in the future. This college that is being created should have the ability to look at that to ensure that where those overlapping skills occur, we are able to make case—and that the college be able to consider those things where appropriate and create exemptions so that our members could do that work where it's appropriate.

There are exemptions in legislation, such as a gas fitter who may go into your home to install a gas appliance. The gas fitter has an exemption and is able to do the

electrical work related to the installation of that gas appliance. That would be a similar example. The gas fitter is not able to wire your house completely but is able to do that limited electrical work. We think that sort of exemption is appropriate. Other examples exist and should exist in the future.

We're respectfully requesting amendments to Bill 183. We have, with the group, for about two years now, worked with different government ministries, and we've attempted to come to a resolution to have changes made. We were directed, frankly, by the government to come to the college, because the college will have the legislated right and mandate to make these kinds of exemptions and to consider these sorts of things. What we are asking, then, is that an amendment be made. You'll see in the paperwork that was provided to you suggested wording and a position for that amendment.

We want it to be clear, though, that we want to have these amendments be appropriate for the skill set, that it be duly considered, and that we can assure that our certified engineering technicians and technologists are skilled, trained and qualified to do the work.

There are several examples that might help you. One example I would suggest is where a building may have a system that monitors the environmental systems. If the environmental system controls break down, the technician or technologist is most qualified and trained to troubleshoot, repair and diagnose that system. As it stands, legislation changes like we have referenced make it so that it may be necessary to have two people attend that repair, as opposed to the technician being able to go in and do the repair—may have to have a licensed electrician supervise the work. The licensed electrician is typically not trained and skilled in that diagnostic and troubleshooting. They're very strongly trained in other aspects of the installation and hands-on code and those sorts of things, but not on diagnostics and troubleshooting. So that's kind of the overlap that we're trying to sort out here today.

I would certainly turn it over to you for any questions you may have of our industry partners, me or Ralph.

The Chair (Mr. Lorenzo Berardinetti): We have just around seven minutes, so roughly two minutes per party. We'll start with the Conservative Party. Ms. Elliott, do you have questions?

Mrs. Christine Elliott: Thank you very much for your presentation. Just for clarity's sake, you're really just asking for an amendment to allow the college to deal with these sorts of issues in the future. Is that correct? You're not asking for the change itself to be made, but simply that the college have the jurisdiction.

Mr. Ron Walker: Certainly, that change itself being made would please us greatly, but I think it's probably fair to say, as you have, that we're looking for the ability of the college to do those things.

Mrs. Christine Elliott: Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to the NDP. Mr. Marchese.

Mr. Rosario Marchese: The OFL made some suggestions that I find very useful. They say we should separate the whole bill into two parts: one that speaks to genuine trades—and by that they mean, obviously, anyone who goes through an apprenticeship program for two to five years—and the other one is the occupations, where it's less time and they have certain skills, and it should be divided that way. I find that a very useful way to separate the skills. Obviously this bill doesn't propose that, but did you find that a better way to deal with it? Would that give you better comfort in terms of what you were looking at, or no?

0910

Mr. Ron Walker: I think what you're suggesting makes a lot of sense to us. We see ourselves not as a skilled trade; we see ourselves as—we say "profession," but "occupation" may well be another way to look at that.

In the electrical sector that we're talking about here, you've got probably three levels: the skilled trade, the engineering technician/technologist and the engineering sector as well, so we'd probably fit in the middle of that. At each end of it, there are overlapping skill sets. In the electrical area, technologists often do design work to a point, but the unlicensed engineer does more in stamped design work on the upper end, as it were. On the lower end, there are overlaps with the apprenticeship, skilled trade, and journeyperson areas. So I think the way you're suggesting to think of it may have great merit.

Mr. Rosario Marchese: Because one of the criticisms that the OFL makes is that now, anything can be classified as a trade. Once you combine the two existing acts, anything can be a trade. I happen to agree with them because, unless you have the required hours to have a genuine trade, to break down the various genuine trades into skill sets and classify them as trades doesn't make any sense to me. But that's what this bill does—

Mr. Ron Walker: There are certainly nomenclature issues there, terminology issues, about what is a trade and what is not a trade and where does it overlap.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on to the Liberal Party. Mr. Zimmer?

Mr. David Zimmer: I just have a short question. I've got your written submission that you turned in, and at page 7—I mean, I gather what it really boils down to is that you'd like to see the bill amended, and you've set it out at page 7, starting with, "More specifically, we submit" the proposed amendment, clause 25, and then a new section, 72.1, and it goes on for a page or so. But can you tell me in layman's language, just for the record, what the effect of that amendment is, just so we all understand it?

Mr. Ralph Palumbo: The regulation now under the Occupational Health and Safety Act indicates that no worker other than an electrician certified under the Trades Qualification and Apprenticeship Act can do electrical work. By that they mean that no one other than an electrician "shall connect, maintain or modify electrical equipment or installations...." What OACETT is saying is that for years, they were doing that very work. So what they're asking is for this amendment to Bill 183

so that they can attend at the college of trades and make the case as to why they should be able to do this work, and in fact to prove that their members are persons with equivalent qualifications by training and experience.

It's not as if it's an automatic; they just want a venue. They want to be able to go somewhere to say, "This is what's happening in the marketplace now. This is the effect it's having on our members and on industry, and we'd like to come and prove that in fact, we need an exemption."

Mr. David Zimmer: And that would take place at the college.

Mr. Ralph Palumbo: At the college.

Mr. David Zimmer: Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): We have time for one last, quick question. Mr. Leal?

Mr. Jeff Leal: Mine's more of a comment. Ron, I just want to say thank you for the time that you took, with my friends Bob Jameson and Sharon Reid, to visit me in my constituency office in Peterborough. It certainly highlighted some of the concerns you have with the bill at its first reading, and I want to assure you we'll be taking your submission very seriously today. I think you've made some very good suggestions, so thanks again. And you do excellent work at Fleming College too. You've got a great reputation.

Mr. Ron Walker: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation this morning.

CARPENTERS' DISTRICT COUNCIL OF ONTARIO

The Chair (Mr. Lorenzo Berardinetti): We will now ask the next deputation to come forward from the carpenters' union. We have Mr. Mike Yorke. Thank you. Good morning and welcome to the committee. If you could please introduce yourself for the purposes of Hansard.

Mr. Mike Yorke: Yes, certainly. My name is Mike Yorke. I'm with the Carpenters' District Council of Ontario. I'd like to say good morning to the Chair and to the committee. Thank you very much for affording us the time to be here.

I'm here with two colleagues, also from the carpenters' union. To my left is Steven Del Duca, public relations at the central Ontario regional council. On my right is Rick Harkness, a colleague of mine. We work together at the Carpenters' District Council of Ontario. Thank you very much. We'll give the presentation.

The Carpenters' District Council of Ontario represents 24,000 skilled men and women across the province of Ontario. I'd like to begin by conveying strong support for Bill 183. Before I go into detail regarding that support, I wanted to offer a few words of thanks to some of the people who deserve credit for this groundbreaking legislation.

Firstly, the carpenters' union would like to thank Premier Dalton McGuinty for appointing Tim Armstrong

to conduct the review of the issue of compulsory certification. That's an issue that our organization has been seeking progress on for close to 40 years.

I'd like to thank Tim Armstrong for having the insight and the courage to go a bit beyond his initial mandate and providing a report to the government that called for self-governance for Ontario's skilled trades.

Finally, thanks to Minister John Milloy, Kevin Whitaker and the political and departmental staff at the Ministry of Training, Colleges and Universities for having the determination to take Mr. Armstrong's inspired vision and make it a reality.

Way back in August 2007, when this government first appointed Tim Armstrong to conduct his review, I don't think anyone imagined how creative and revolutionary his report would be, because we certainly didn't.

Our initial hope was that the review would lead to the creation of a fair, open and transparent process for interested voluntary trades to apply to become compulsory. Well, Bill 183 does provide that opportunity, but it offers the entire community of skilled trades so much more.

When both Armstrong and Whitaker reached out to stakeholders across the province, they heard many of the same concerns and complaints. For example: The current PAC system is not functioning properly; government doesn't listen to us; there are too many bureaucratic layers to deal with; there's no adequate mechanism for dealing with compulsory certification or ratios—and on and on the list went.

Self-governance, which is really what Bill 183 affords us, is a comprehensive and exciting solution to all of the well-founded concerns that were raised. To me, as a proud carpenter, the creation of our very own self-governing body will mean that we have the chance to continue to raise the profile of the trades, to add even more value to apprenticeship training and to give ourselves a professional status that is similar to analogous programs for many other professions.

For too long, despite the best efforts of the ministry and various training centres, colleges and boards of education, a career in the trades had been seen as an option of last resort. Those of us who work in the trades know that this is an unfair yet persistent stereotype. It's our hope and our sincere belief that the college of trades, when fully implemented, will help to change that image once and for all.

The proposed college is also designed to empower participants to make decisions without going to government, and for the most part to seek and receive approval. This means that for the first time ever we will no longer be spectators as others decide what's best for us. Bill 183 means that we will become the decision-makers.

We will determine and set training standards. We will develop the framework for the compulsory certification application process and for deliberations relating to ratios. We will populate the various boards and committees of the college via the transition board. We will develop strategies, collaboratively, for addressing issues such as looming skills shortages. And ultimately, we will

strengthen and modernize Ontario's skills and apprenticeship system and in turn play a fundamental part in building the economy of the future. All of this will rest with us, and that, from our perspective, is ultimately a good thing that deserves our support and endorsement.

0920

Notwithstanding our enthusiastic support for the legislation, there are a couple of suggestions that we have with respect to how it may be improved. We would respectfully submit that the initial classes of membership for the college of trades, as spelled out in section 36 of Bill 183, be expanded so as to include registered apprentices. So much of what we aspire to achieve with respect to self-governance for trades is linked directly to how our actions may affect apprentices. These women and men are the future of the trades, and so it seems to us that it's essential to include them as full participants in the college, starting on day one.

We also note that those practising a voluntary trade who do not hold a certificate of qualification are neither required nor able to join the college right away. While we understand the rationale for defining membership in this manner, we hope that the transition board will exercise the regulatory power it has by virtue of subsection 36(3) to include these individuals as a voluntary class of membership as soon as possible, following the creation of the college.

With respect to the structure of the trade boards, we do not believe that it is reasonable to expect that four members will be enough to provide the range of opinion that exists within each specific trade. So with that in mind, we recommend that subsection 20(3) be amended so that no fewer than eight individuals would be appointed to serve on a trade board. We would recommend that these eight could be further divided such that four would represent employers and four would represent employees. It may also be useful to include language in this section that suggests that appropriate geographic representation be included as one of the criteria for appointing individuals to the trade boards.

With respect to deliberations regarding compulsory certification, we recommend that the period of repose described in subsections 60(5) and 60(6) of the bill be amended so that a maximum period of repose is written directly into the legislation. We would further recommend that the period of repose be no more than five years; however, it could be less.

Over the last few weeks, we have heard a number of suggestions from other well-meaning organizations that believe that fundamental changes are needed to Bill 183. Some have suggested that the proposed organizational structure of the college be revised so as to include more direct representation from the provincial government itself. To this, we disagree. The bill already affords the government with continued responsibility for a host of important issues, not the least of which is decision-making power with respect to funding for training delivery agencies. That said, it seems to us that self-governance has to mean exactly that, and we have no

doubt the community of skilled trades is mature enough and ready to take on that challenge.

Other organizations are of the belief that the college should only apply to compulsory or to restricted trades. Again, we disagree strongly. In order for this undertaking to be comprehensive and to have the valuable impact that it should, the college must apply to all skilled trades. Leaving out most trades would create an unnecessary and artificial class system within the trades and would undermine the goal of strengthening apprenticeship across the board.

We understand that embarking on this new course represents a bit of a leap of faith on the part of the skilled trades community. As in all similar situations, when dealing with enabling legislation, the bill leaves tremendous regulatory power in the hands of the transition board. But it is the opinion of the carpenters' union that we should not fear the unknown, especially when one considers that the transition board will include representatives and individuals who represent us. Some may believe that this is too much of a challenge and that we should simply stick with what we have or tinker with the status quo, but we believe that Bill 183 represents a tremendous opportunity for all skilled trades, because the power to shape our future will rest with us.

We look forward to participating fully in the college. Thank you very much for the opportunity to meet you this morning.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Yorke. That leaves about six minutes for questions, and we'll rotate the starting questions. We'll go with the NDP first. Mr. Marchese?

Mr. Rosario Marchese: Thank you, Mike. You answered one of my questions, because one of the issues that was raised by the Coalition of Compulsory Trades was that we separate the compulsory trades—or at least phase it in with the voluntary trades. You're obviously speaking against that.

Mr. Mike Yorke: Yes. Well, I'm glad to have the opportunity to bring that forward.

Mr. Rosario Marchese: What about the issue of fees? Does that concern you at all, in terms of the voluntary trades or the others? Will it discourage some? Is that a problem for you, or is that a good thing?

Mr. Mike Yorke: We've discussed that issue and we have looked at it and we don't believe that it will constitute a barrier. We think that's part of the process in terms of self-governing, self-regulation. There is an opportunity there for individuals to play that kind of role, participation.

Mr. Rosario Marchese: Okay.

Mr. Mike Yorke: We don't see that as an obstacle.

Mr. Rosario Marchese: What about issues of enforcement or the language around inspectors, which is very lax in terms of the registrar "may" or "may not," and there are other conditions. How do you feel about the issue of enforcing? The OFL and many other unions are saying that it's very weak, there should be an enforcement unit and other language as expressed by them,

which is very strong. Do you feel strongly one way or the other about that?

Mr. Mike Yorke: That particular issue, I'm going to ask a colleague of mine to address that—Steve Del Duca.

Mr. Steven Del Duca: Yes, with respect to that, understanding fully where some of those concerns are coming from, I think at the end of the day the fact that the enabling power will rest with the transition board and also that the community of skilled trades will have a chance to participate and to make submissions in the actual implementation of the college—we don't feel that it's a serious problem the way that the language is contained in the bill at this time.

Mr. Rosario Marchese: Okay. What about the issue of an organization that seems very bureaucratic and top-heavy? Do you think that we have too many boards set up? You have the divisional boards, the trade boards, the review panels, you have the governance board. Do you think there are too many panels at work here or do you think that's okay?

Mr. Mike Yorke: We believe that's okay, because we see that there's been a streamline of existing boards. Some existing are merged into this, so we don't see it as an overlap. As a matter of fact, as it is self-regulatory, it's sort of outside the framework of government. We think that's acceptable, as it is laid out in the flow chart that I have here.

Mr. Rosario Marchese: And if the government doesn't accept many of the suggestions you make, will you be okay with that?

Mr. Mike Yorke: We can always improve the bill and that's why we're here, to bring forward some of our issues. We're comfortable with it but we believe there is room for improvement and that's why we've made the presentation as we've drafted it.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move to the Liberal Party. Mr. Flynn?

Mr. Kevin Daniel Flynn: Thank you, Mike, for your presentation. Among all the constructive suggestions you've made, could you briefly expand—and then some other members have a question—on what you see taking place during the transition period?

Mr. Mike Yorke: Steve, I'm going to ask if you can address that.

Mr. Steven Del Duca: Sorry, could you—

Mr. Kevin Daniel Flynn: During the transition period, when we have the transition board in place, what do you see taking place during that period?

Mr. Steven Del Duca: If I understand it correctly, the transition board will sort of go forth to start to populate the rest of the college itself. There are a number of other appointments that need to take place for division boards, for the trade boards, for the review panels etc. I think that the criteria around deliberations for ratios and the criteria around applications for compulsory certification will take shape at that stage.

Obviously it's our hope and our opinion that some of that stuff should move as quickly as possible because there has been a great deal of pent-up demand in the

system, from this organization's perspective; close to 40 years that we've been talking to various governments about the issue of compulsory certification, for example.

So those are some of the fundamental things that I—

Mr. Kevin Daniel Flynn: And you envision playing an active role in that?

Mr. Steven Del Duca: Absolutely, and we envision participating as fully as possible.

The Chair (Mr. Lorenzo Berardinetti): One last question. Mr. Moridi?

Mr. Reza Moridi: Mr. Yorke, I wish to thank you and your colleagues very much for this wonderful deputation and presentation this morning.

As I understand, you are suggesting that we include a new class of membership. I wonder if you could please elaborate a bit about this new class of membership you are suggesting be included in this bill.

Mr. Mike Yorke: The apprentices?

Mr. Reza Moridi: Yes.

Mr. Mike Yorke: Thanks for that question. Apprentices make a commitment to the trade, no matter what the trade is. They're putting four or five years of their life into the trade. We believe they should have the opportunity to play an active role in the college from the beginning. They've made that commitment. We see them as the future of the trade and we see they're so important to the longevity of the trade that we believe it to be unfair to exclude them from the college. We believe there is an active role for the apprentices. They'll make a contribution to their own future.

Mr. Reza Moridi: Thank you.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the Conservatives.

Mr. Robert Bailey: We've got two questions, so I'll ask mine really quick. In the short time we have, I'd like you to expand on your question about the ratios and how you see that changing or what impact it has on your trade at this time.

0930

Mr. Mike Yorke: With respect to the apprenticeship ratios?

Mr. Robert Bailey: Yes.

Mr. Mike Yorke: Within the context of the current PACs. That's where they would be dealt with. At the same time, when it merges into the college of trades, there's an opportunity to have that open, transparent discussion between all parties around the issue of ratios. We don't see any change in the ratios currently, so I think that affords us the venue to have that discussion.

Mr. Robert Bailey: Okay. Ms. Elliott's got a question.

The Chair (Mr. Lorenzo Berardinetti): Mrs. Elliott.

Mrs. Christine Elliott: I was hoping you could expand just a little bit on the idea that you expressed with respect to the creation of the college and how that would encourage other young people to get into the trades, and how you think that will foster the growth.

Mr. Mike Yorke: I'll make one or two comments. Then I'm going to ask my colleague Rick Harkness to

address the views. He's got a great way of putting that with respect to the college.

We think that's an important part, to have young individuals coming into the trades and see that there's something really valuable in terms of the role they can play within the college. As we said earlier, in the context of the brief, we think the professionalism and the improvement of respect within the community at large around the trades really will help to drive apprenticeship completion rates.

But also, Rick, if you could address that question, that would be great.

Mr. Rick Harkness: Certainly. I guess the simplest way to put this is that if you spend four years of your life training to be an apprentice and working toward being a journeyman, and at the end of it you get a piece of paper that doesn't mean anything, what was the point?

Most of our apprentices who come to us tell us the same thing: "Why would I spend \$100 to write a C of Q application and pass a test that nobody asked for and that nobody cares you have?" That's why they want to move to compulsory certification. They want to be recognized as a profession.

Mrs. Christine Elliott: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That's our time. We appreciate your presence here today and your deputation.

Mr. Mike Yorke: Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): Just to remind members: We have four more deputations to go through before 10:30, when we recess for question period.

ONTARIO CHAMBER OF COMMERCE

The Chair (Mr. Lorenzo Berardinetti): I'd like to call the next deputation forward, which is the Ontario Chamber of Commerce. Good morning. Welcome. As you've seen, it's 15 minutes for your presentation. Any time that you don't use in making your presentation will be spread amongst the parties, with questions from the members of the committee.

Mr. Stuart Johnston: Sounds good. Good morning. I'm Stuart Johnston. I'm representing the Ontario Chamber of Commerce. Thank you very much for the opportunity to come to speak with you this morning on this particular bill. The Ontario Chamber of Commerce, for those who may not know, is a federation of 160 local chambers of commerce and boards of trade throughout Ontario representing approximately 60,000 businesses from all sectors, every size of business, from virtually every corner of the province.

I'd like to start by saying that the proposed college of trades is an excellent step in the right direction, a step that should serve to put us on better footing as we attempt to train our workforce in a manner that is best for our economy.

The Ontario chamber and our 60,000 members have long viewed skilled trades and apprenticeship training as

the third pillar of education, one that's equally important to college and university education. We've been pleased with the progress we've witnessed in recent years to address concerns raised by the chamber in our two previous reports on skilled trades. Of course, there is always more to be done in this particular area.

We know that several important programs have been put in place over the years that attempt to address the skills shortage. Unfortunately, many of our members have no idea that they exist or how to access many of these programs. We are hopeful that the college of trades will help improve the level of awareness as well as firmly establish skills and apprenticeship training as the third pillar of post-secondary education.

In particular, Bill 183 establishes a framework that will enable the college of trades to further encourage businesses and individuals to make investments in workforce education and training. In our first report on skills shortage, we quantified that return on investment for apprenticeship training at 430%. So for every dollar that business invests in training an apprentice, they'll get back \$4.30 over the life of that employee's work, which is a significant return on investment for the business, the employee and the economy.

We know that training makes good economic sense. It's also vital for Ontario's competitiveness that we have a well-trained and adaptable workforce. The new college of trades would provide further ways to encourage businesses to play their part and will provide a formalized, structured environment that will serve to better coordinate and manage skills training in Ontario.

The framework outlined in Bill 183 will enable the college of trades to better develop underutilized segments of the workforce. Skills shortages have, for many years, been a serious concern of our membership and continue to worry them as they look ahead. We are constantly hearing from our members about a lack of qualified workers in a broad range of sectors. Notwithstanding the many unfortunate people who have recently lost their jobs, the skills shortage will continue to worsen in the years to come. But there are a few ways in which to grow that workforce and many ways in which the workforce, of course, is shrinking.

Ontario's slowing birth rate and the aging population serve to exacerbate an already urgent problem. As we all know, immigration will help to boost our workforce, but we are in a global competition for skills. Every industrialized country in the world is facing the same demographic pressures that we are. So immigration, while important, is not the panacea that some may believe.

It's estimated that from 2011 to 2020, Ontario's labour force will shrink or it will weaken to about 0.7%, from its current 1.8% that we've witnessed over the last decade. In addition, Ontario's population growth rate is expected to shrink even further over the next five years, averaging a mere 0.5%. Of course, we need somewhere just north of the 2% range in order to sustain our population.

Perhaps the most reliable way to boost our workforce is to train our people in a better, smarter way, as well as

to strengthen our ability to tap into underutilized segments of the population—often cited are the aboriginal and disabled communities, as well as the new Canadians who are already here in Ontario but who have been unable to transition to the labour market for a variety of reasons—so that their sought-after skills and experience can be fully utilized. The college of trades, we believe, will be able to encourage greater participation from these groups and others in higher education and, of course, in our economy.

Bill 183 also provides direction for the college of trades to address the unwarranted stigma attached to skilled trades. Whether it be through rebranding apprenticeship training or marketing the value of the trades, the college could and should take it upon itself to help address this long-standing issue in Ontario.

For these reasons and more, the OCC is broadly supportive of the college of trades. We would, however, offer a few important suggestions for the government to consider in order to strengthen the legislation.

First of all, clarification, we think, is needed in the bill to provide some clarity and predictability on the financial cost of membership for employers and employees. Open-ended language may serve to undermine the confidence and trust in the new college of trades, so predictability and transparency, we believe, is the key in this area.

As such, we would ask that we continue with further consultations as the legislation, regulations and even the transition board progress, in order to ensure a more fulsome discussion in this most important initiative. We need to get this right the first time, and so all parties need to have a voice at the table.

Finally, to that end, we notice that our colleges are not specified in the bill as being represented on the board of governors and on trade and divisional boards. As the primary delivery agents for apprenticeship in-school training, we believe colleges have much to bring to the table and should be an integral part of the governance of the college of trades.

I wish to thank the committee very much for this opportunity, and I'd be pleased to answer any questions.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much. We have about seven or eight minutes, and we'll try to stay with our timeline. We'll start this time with the Liberal Party. Mr. Flynn?

Mr. Kevin Daniel Flynn: Thank you. There may be some other questions after me, but, certainly, Stuart, thank you for your support of the bill. Thank you for your constructive comments as well.

A previous delegation talked about the trades often being an option of last resort when somebody is considering a career. Does the business community see it that way as well? Those comments came from the trades themselves. Do you see that?

Mr. Stuart Johnston: Well, of course. But first, let me—I've been remiss—introduce my colleague Sonia Mistry. She's our policy analyst at the Ontario chamber, so I apologize for that oversight.

In answer to your question, yes, our members actually do see that because they're frustrated, because they can't

find the appropriate skill level in the employees they're seeking. So, absolutely, they're frustrated that there are not enough people being trained. Some are turning to the immigration system—they think they need to bring them from overseas—but that's problematic in and of itself because, as I said, every industrialized nation is fighting to keep the people they have and to recruit the people from other countries, including ours. So they do absolutely see that as an issue.

The Chair (Mr. Lorenzo Berardinetti): Okay. Mr. Levac?

0940

Mr. Dave Levac: Yes, very quickly. Thank you for your presentation—and obviously to the others that presented. Just a quick question. I know the chamber is very famous for polling its membership at the local, provincial and national levels. In terms of percentages, is there anyone that has come offside with support for the bill, and for what reason—if there needs to be pointed out—

Mr. Stuart Johnston: No. I can say that didn't come up. In fact, it's been almost universal support for a coordinated college of trades.

Mr. Dave Levac: Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to the Conservative Party. Ms. Elliott?

Mrs. Christine Elliott: Thank you very much for your presentation. You've raised a number of really interesting and important issues. I was particularly struck by the one comment that you made about how the college could perhaps be helpful in drawing in certain groups that traditionally have had difficulty with employment—people with disabilities of some kind. I'm interested in your comments about how you think the college could help bring some of those groups in and foster their growth in the trades.

Mr. Stuart Johnston: I think if it's focusing on the training issue, and it also broadens its mandate to include that rebranding and the marketing. We talked about the immigration issue. We have some very qualified people here in Ontario, an underutilized workforce. I think the college will have the ability to reach out to these particular communities, figure out what their particular needs are and how to formulate strategies to bring them into the economy and get them employed, because right now, as we know, those segments are dramatically underemployed, so we need to bring them into the workforce.

Mrs. Christine Elliott: Just one follow-up question: Do you think the legislation, as drafted now, will have the ability to do that, or do you think there are any further changes or any further powers, perhaps, that they need to have?

Mr. Stuart Johnston: I think if it is a priority, and I believe that it should be, the language could be strengthened. As it sits now, it does identify underutilized segments, but I think, of course, any legislation could be strengthened.

Mrs. Christine Elliott: Thank you.

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to Mr. Marchese.

Mr. Rosario Marchese: Stuart, I have two questions, and one relates to the issue of poaching, because I've been interested in that for quite some time. There are many corporations who don't invest as much as they should and/or would like because they fear that if they invest, other companies who don't will simply poach those workers. Do you see this bill as somehow dealing with that?

Mr. Stuart Johnston: I think it will certainly help. You're absolutely right. Poaching is a very serious issue with our membership. Many members are reluctant to invest in training because they know that their competition is going to hire them away. I think that formalizing the trades training in Ontario in the manner that we're talking about will help to address that in the sense that poaching, really, is a supply-and-demand issue. There's a huge demand and a very low supply, so it encourages poaching. I think if we can increase the supply, then the demand through poaching will lessen.

Mr. Rosario Marchese: The other question I have is my interest in what Quebec is doing, and Ireland and France, in terms of forcing corporations who have over \$1 million in profits to invest 1% of their dollars in training. I kind of like that. I think it works. Do you like that?

Mr. Stuart Johnston: I don't think our members would, no.

Mr. Rosario Marchese: Why not? Given that you talk about the tremendous need that we have in investing in training, and that there's a serious shortage, why wouldn't the members like it?

Mr. Stuart Johnston: Because I think the real issue is the one you first addressed through your question about poaching.

Mr. Rosario Marchese: But if we're all doing it?

Mr. Stuart Johnston: Well, if we're all doing it, we don't need to legislate people to contribute training dollars. Our members see the inherent value of training people. They need those employees. They will train them or they will go to places, colleges and elsewhere, to find—

Mr. Rosario Marchese: Other countries.

Mr. Stuart Johnston: And other countries. Well, we need to go to other countries. Our birth rate is not sustaining our workforce. We need to use a number of strategies to raise that supply, and I think that once that supply is there and they're comfortable in the fact that the poaching issue may be addressed, they have no problem investing. They understand the value of that investment. They're just reluctant to do so in many cases because they know that investment may disappear out the door.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much. Thank you for your presentation and for being here this morning.

CHRISTIAN LABOUR ASSOCIATION OF CANADA

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next deputation, which is the Christian

Labour Association of Canada. Good morning. If you just want to identify yourself for the record.

Mr. Andrew Regnerus: Thank you, Mr. Chairman and committee members. My name is Andrew Regnerus. I'm the construction coordinator in the province of Ontario for the Christian Labour Association of Canada and I'm making this presentation on behalf of our four locals in Ontario and our five offices and training centres, which are located in Niagara, Ottawa, southwestern Ontario, central Ontario and in the GTA.

I have included some background information about CLAC and I would like to begin by saying a few things: The Christian Labour Association was established in 1952. We have over 50,000 members, about one third of those in Ontario, and about one fourth of our Ontario members work in the construction industry.

I want to advocate for a model of construction labour representation in the province of Ontario and to endorse that model and ensure that consideration of that model is recognized in this particular legislation for the college of trades.

Our model is unique in the construction sector. We would say that all of an employer's workers in all trades belong in one collective bargaining unit as a workplace community, with a common collective agreement. Our wall-to-wall approach creates choice for workers over against the one-union-per-trade approach that is practised by traditional construction unions. For this and for other philosophical reasons, CLAC is not part of the Ontario Building and Construction Trades Council.

Several hallmarks of our philosophy of labour relations are a co-operative approach, mutual dignity and respect between worker and employer, promotion of workplace democracy, and worker choice. They don't all resonate well with the underlying philosophy of many traditional unions. Promoting unionized labour as an independent, all-Canadian union gives us a unique perspective, and we wish to share that perspective participating in Ontario's college of trades.

Of the four divisions that are proposed, I want to speak particularly about construction. We endorse promotion of the trades, which is a central goal of the college. We see that there are barriers that must be overcome to address the upcoming skills shortage and to position Ontario as a leader within Canada and globally. We also endorse the recommendation that the college should reflect the workplace reality of the trades and the diversity of the province.

The college is to be self-regulating and self-governing. That's a laudable goal and a goal that's consistent with enhancing the status of the trades, but we wonder about whether this is actually deliverable.

The construction industry is known to have some unscrupulous practitioners and we need to be able to continue to eradicate those practitioners, whether it be the underground economy or ignoring legislation that has to do with employment insurance, WSIB, health and safety, and other legislation. The expectation of compliance, we believe, comes more readily with a stick than a carrot,

and there is a disciplinary procedure proposed in the college of trades that will help address that. The college must be able to level sanctions against those who damage the reputation of the trades, because it is that damaged reputation that hinders attracting additional workers into the trades. We believe there is an ongoing separate and important role for inspectors who monitor job-site health and safety in compliance with the Trades Qualification and Apprenticeship Act and other legislation.

We see that the governance model that is proposed is a very streamlined model and it is intended to represent diversity in the province in these four divisions. We would echo the caution expressed by others earlier in weeks and months leading up to today that the college become not so bureaucratic that it is unable to function in a way that would allow it to carry out its important goals.

Having said that, the college has to sufficiently be representative of the industry throughout the province in order to garner full and meaningful support and to get the supporting broad-based buy-in necessary to make change.

0950

In the construction industry, there are three main models—I spoke about this in my introduction—the craft model; the wall-to-wall model, represented by CLAC; and then the non-union model. All three models for the representation of college members must be permitted a voice in the college.

We propose that the board of governors permit three labour members, one from each model, including a designated seat for CLAC. To keep the board size to 22 as proposed, the number of lay members might be reduced to four from five. On the other hand, increasing the board to 23 isn't particularly unwieldy and may help achieve quorum for meetings. We believe the same to be true for divisional boards—representing all three models—and we look forward to participating in the college in that respect.

We're also concerned that the trade boards won't be sufficiently representative of the diversity of the province. Insofar as these boards appear to be groupings of several trades, many groups will be vying for places on the boards, representing diverse interests with regard to different trades, different labour models, geographic differences and sectoral differences within the construction division.

We also want to make sure that the college's solicitation for input is inclusive. Considering how appointments are to be made by an appointments council, we recommend that all labour models be included in that body. Further, adjudicative rosters and review panels ought to be accessible to all voices that make up the diverse mosaic of trades and trade representation in our province.

With respect to the phase-in plan, it appears, from our perspective, to be ambitious and well thought out. However, the actual launch of the college is predicated on settlement of a couple of initial issues which have defied resolution for decades. Perhaps we should reconsider

whether we want the spotlight on some contentious issues which will run contrary to the goal of enhancing the positive image of the trades—dealing with ratios in particular, less so on the compulsory status issues of the trades. Whatever the outcome, we'll be perceived to have winners and losers.

With regard to membership in the college, we believe that it should consist of more than just journeypersons and their employers, as is proposed. Additional categories should be added, including registered apprentices; they're the future of the trades and of the college. Apprentices also have the most relevant input on how to make the trades more attractive because they're the ones who have most recently been attracted to the trades.

We also suggest that labour representatives who might not be trade journeypersons should also be members of the college, on a voluntary basis. Such representatives are asked to speak on behalf of journeypersons and apprentices and to contemplate changes in the industry. With our unique multi-trade approach, this is particularly important to our union. We want to ensure that our members, who speak through staff representatives, are able to meaningfully have their voice heard within the college.

In conclusion, I do wish to point out that in our package our earlier submissions to Mr. Whitaker are not appended, as was intended, due to a computer glitch, but we will happily make them available today by submitting them to the committee clerk.

I wish to thank you for your time. We'll gladly answer any questions today if there are any, and we can be reached for further information.

The Chair (Mr. Lorenzo Berardinetti): We have just under two minutes per party. We'll start with the Conservatives. Any questions? Mr. Bailey.

Mr. Robert Bailey: Thank you for your presentation today. You touched on a number of issues here that we've heard before, as well. The ratios keep coming up. How do the ratios affect your union, CLAC?

Mr. Andrew Regnerus: Well, I would say not too differently than any others. We've made a lengthier submission on ratios in our initial position paper. The important thing for us is that we recognize that ratios are implemented in order to ensure proper health and safety and training standards. What's important for us is that apprentices be trained well and that there be a level playing field. I mentioned unscrupulous employers, and there are those who play fast and loose with the ratios, and that shouldn't be. We need enforcement mechanisms that ensure that the trades are enhanced by paying attention to the ratios and training people properly.

Mr. Robert Bailey: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Okay, the NDP. Mr. Marchese.

Mr. Rosario Marchese: Thanks, Andrew. I wanted to say that you're not the only one who has spoken about having apprentices have a role as members on the board. If there's one thing that has been consistent with most of

the deputants, it is that apprentices should be members of the board. So I wanted to just say that.

With respect to the various divisions, where you've got a governing board, you have a divisional board and trade boards—is there one of these panels that you would abolish, or do you think they're all useful?

Mr. Andrew Regnerus: In the streamlined governance, I think they're all necessary. So there isn't one in particular that I would have abolished.

Mr. Rosario Marchese: Thanks, Andrew.

The Chair (Mr. Lorenzo Berardinetti): Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you, Andrew. Three quick questions: Just so that I understand the organization a little bit better, I'll just choose any one of the trades. Let's say I was a steam fitter or I was a crane operator, but I was working on a job site where the collective agreement was held by your organization. In what capacity would I be operating? Would I be operating as a member of your union or as a tradesperson?

Mr. Andrew Regnerus: Both.

Mr. Kevin Daniel Flynn: Both. Okay. So within the wall-to-wall model, you've got a variety of trades.

Mr. Andrew Regnerus: That's correct. On the same job site we'll have carpenters, steam fitters, crane operators, sheet metal mechanics and the apprentices of all of the above working under a common collective agreement.

Mr. Kevin Daniel Flynn: But you would recognize the provincial certification in those trades.

Mr. Andrew Regnerus: Absolutely.

Mr. Kevin Daniel Flynn: Okay, great.

I liked your point about not having the two important issues that have come to the forefront define the success or the failure of the college in its initial stages. Could you expand on that a little bit? You've talked about ratios and compulsory status.

Mr. Andrew Regnerus: As I said, ratios have generated more heat than light in the last number of years since the initial report was unveiled a couple of years ago. I really do wonder if that is going to be the best thing for people to talk about. There is such a diverse range of opinion on that.

I'm glad that I can also address the issue of compulsory certification. I think that that should be less contentious and could be more in keeping with the role, which is to enhance the trades, to put them on a level playing field and perhaps use a little bit of a more common-sense approach. My friends from the carpenters' union before me wonder, as I do, why it is that carpenters don't need to be licensed but barbers and hairdressers do.

Mr. Kevin Daniel Flynn: The final question is: On the apprenticeship issue, the bill does not include them, as it stands at present, but it's the intent that the college would make its own mind up. It would be one of the first tasks—whether to include apprentices or not. You're saying they should be included from the get-go. Could you live with a model that had that as the first task of the college?

Mr. Andrew Regnerus: I could live with either model.

Mr. Kevin Daniel Flynn: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation.

I'm just trying to stick to the schedule here so we can all make it to question period. Our 10 o'clock deputation is Jeff Jenkins and Dr. Robin Bredin. Are they present? They're not present? Okay. What we'll do is, we'll listen to our 10:15 deputation, which I know is present, and we'll see if the 10 o'clock deputants come.

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REFRIGERATION PIPEFITTERS

LOCAL UNION 787

The Chair (Mr. Lorenzo Berardinetti): The Refrigeration Pipefitters Local Union 787: Good morning, and welcome.

Mr. Shane McCarthy: Good morning. I'm pleased to join you all this morning.

The Chair (Mr. Lorenzo Berardinetti): If you could kindly identify yourself for the record.

Mr. Shane McCarthy: Okay. I'm Shane McCarthy. I'm with the JTAC, refrigeration workers, Local 787.

I'm representing the United Association Refrigeration Workers. We're the HVAC workers in Ontario. Refrigeration Pipefitters is part of the pipe trades in Ontario and represents over 2,800 members working the air conditioning, refrigeration and mechanical systems industry.

The introduction of Bill 183, the college of trades, marks a significant milestone in the province of Ontario. It's a belief of my members that a regulatory body governed by its members is necessary. Such a college will advance the profile and operation of skilled trades in Ontario. However, it is also our belief that the profile should also be inclusive of tradespeople.

The current proposed model must be inverted. We believe that individual trade colleges should be developed that provide individual trades the authority and legal structures to self-govern under the coordination of the college and its committees. The trade colleges must be comprised of licensed tradespeople who are also members of the college. The college boards must be comprised of elected members of selected trade colleges that reflect a cross-section of trades and interests; geography, encompassing all regions of Ontario; business size; and a balance of sectoral representation. It is only upon this inverted structure that the college can realize its mandate and its vision to maintain and increase the safety, health and overall well-being of the consumer, workers and the environment.

I will now elaborate on the proposed structure amendments that we believe are necessary in this bill. Looking at the board of governors, we believe its scope of duties needs to be more clearly defined. The board must be reduced in size to ensure the reduction of redundant and needless bureaucracy. Members should be tradespeople elected from divisional boards. However, we do recog-

nize the importance of non-tradespeople appointed by the government to protect the public interest.

Looking at the appointments council, as it reads, Bill 183 does not outline the appointments process to be used by the appointments council. Therefore, Local 787 requests that the appointments council be governed by members of the college—

The Chair (Mr. Lorenzo Berardinetti): Excuse me, Mr. McCarthy. Could you just step back a little bit from the mike, because it's just not picking up. I was just told by Hansard that they're having trouble picking it up.

Mr. Shane McCarthy: Sorry. Too loud. Let me just repeat that again: Therefore, Local 787 requests that the appointments council be governed by members of the college in addition to selected members of the public.

Reviewing the structure for the review panel, we recommend that applications for compulsory status should proceed while the college is established. The interim board of governors should develop criteria for granting compulsory status, as well as appointed adjudicators to the panel to review the applications.

Looking at the issue of apprentices in Bill 183, a distinct divide is made between management of the trades and the management of the apprenticeship system. In fact, Bill 183 does not propose apprentices as members of the college. Much of the actual authority of apprentices will continue to lie with the Ministry of Training, Colleges and Universities. It's the recommendation of Local 787 that apprentices be required to be members of the college. Much of the apprenticeship training is done on the job. As such, the inclusion of apprentices in the college provides Ontario with consumer protection.

It is also our recommendation that the college have the authority to register apprentices, rather than MTCU. In addition to the reasons stated before, the college will ensure that ratios of apprentices to journeymen are upheld to provide proper safety and supervision. The college must also have the authority and power to enforce these journeyman-apprenticeship ratios. Doing so requires additional authorities to maintain an adequate registry system.

Finally, the college must have the authority to grant training delivery status and monitor TDA status. Various other governing bodies of occupational regulation have the authority to accredit post-secondary programs with professional standards to ensure public apprentices receive the highest level of training standards.

To the issue of enforcement of Bill 183: Enforcement of the trades in Ontario is essential to upholding and expanding upon the integrity of the trades; however, Bill 183 lacks proper enforcement measures. In Mr. Armstrong's report, enforcement is imperative to the role of the college. We propose specifying compliance as a primary objective of the college, increasing the enforcement roles of inspectors and providing the college with the means to seek legal disciplinary measures for persons practising without a licence.

We believe the college should adopt an enforcement policy similar to the Ontario College of Physicians and

Surgeons. The OCPS operates an inquiries, complaints and reports committee who refer allegations to the discipline committee. The discipline committee finds whether the physician has committed an act of professional misconduct and issues the appropriate punishment, ranging from revoking the physician's licence to imposing specific terms or limitations on the physician.

We believe that without enforcement capabilities similar to the OCPS, the college will be unable to fulfill its mandate of trade governance. Giving the college enforcement capabilities will increase public confidence in the trades, raise public trust in the college and raise the college's reputation as a governance model of excellence. It's particularly important that enforcement measures, including legal measures, are accessible to the college to discipline persons practising a certified trade without a licence. To this point, the college must develop and execute additional measures to protect its reputation, including membership identification, such as a card, that assures customers that the tradesperson in question is indeed qualified to perform the work. Working with the government of Ontario, the college should work to educate consumers on how to identify members of the college, helping to decrease the number of persons practising illegally.

In summary, it's the opinion of Local 787 that the development of the college is instrumental and critical to the future of trades in Ontario, if it's done properly. Bill 183 contains a well-intended platform; however, it requires significant amendments. The most important of these amendments is the establishment of individual and self-governing trades colleges that fall under the governing umbrella of the college.

Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have about six minutes left, so two minutes per party. We'll start with the NDP. Mr. Marchese?

Mr. Rosario Marchese: Thank you, Shane, for your report.

Mr. Shane McCarthy: You're welcome.

Mr. Rosario Marchese: One of the things that you speak to has been raised by other unions as well. You say, on page 5, "The college cannot monitor compliance when it lacks an up-to-date and accurate registry of apprentices or reports on the number of journeypersons employed," and it seems to make sense. Why does the government or the ministry want to hold on to that particular function and not pass it on to the new college? Why do you think?

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Mr. Shane McCarthy: I think that's a good question. Speaking to the actual information, I think there's been a lack of accurate information for a while, so I don't know that they're trying to hold on to something they don't have already.

Why are they trying to hold on to the actual management of it? I'm not really sure. I think perhaps they may be afraid that we're not going to do a good job. But I think that we will do a good job of it. Perhaps they think

that qualified people aren't available, which I think is not true. I think that there are lots of people within our own organizations who can fulfill those tasks.

Mr. Rosario Marchese: But why have a college of trades—and I hope the name gets changed, by the way. Why have a college of trades, upon whom you entrust so much of this new work, and then say that the whole notion of who maintains the registry and the reports on the numbers of journeypersons employed and so on isn't something that they could do. I don't quite understand it.

Mr. Shane McCarthy: And neither do I.

Mr. Rosario Marchese: And maybe the parliamentary assistant might tell us.

The Chair (Mr. Lorenzo Berardinetti): Okay, and we're going to move on to the Liberal Party. Mr. Flynn.

Mr. Rosario Marchese: Because I would find it helpful.

Mr. Kevin Daniel Flynn: I've got a statement—I know you would, Rosario. The college, as I understand it, has all the powers that you were mentioning. It's modelled on other colleges that exist currently in the province of Ontario. As I understand it, it has very clear prohibitions that you can't practise a trade that you're required to have a licence for—it may be a matter of clarity or it may be semantics, but my understanding is that what you've asked for is included in the bill. I'd be interested in your comments, perhaps, outside of this sort of time-limited arena we're in. I'd like to understand that a little bit more, and I know my colleague Mr. Moridi has a more precise question, I think.

Mr. Shane McCarthy: Okay, well, I'd be more than happy to provide you with that time.

Mr. Kevin Daniel Flynn: Yes, thank you.

Mr. Shane McCarthy: You're welcome.

The Chair (Mr. Lorenzo Berardinetti): Mr. Moridi?

Mr. Reza Moridi: Thank you, Mr. McCarthy, for this presentation. In the proposed legislation, registration of apprentices remains with the government, with the MTCU, and you are suggesting otherwise.

Mr. Shane McCarthy: Yes.

Mr. Reza Moridi: Could you explain a little bit more what the significance is of transferring this authority to the college rather than keeping it within the government?

Mr. Shane McCarthy: Certainly. The first thing that comes to mind is, when we're on the job—this is different from post-secondary—we're working with the journeymen. We're working under the watchful eye of the Ministry of Labour. We have to make sure that the journeymen and apprentices are compliant with all the laws—safety laws and everything—under the labour people, for one thing.

Secondly, there's something called a training standard. It really is the mentorship part of an apprenticeship. For the college to properly do its job, it has to be in charge of the mentorship process. That's the most important thing in apprenticeship, that we mentor that apprentice along through on-the-job training, because that's the 90% part of the training. They only get 10% in the college or in the

training centre, where they're doing the mostly technical part of their training.

If we don't have the ability to oversee the apprentices throughout their apprenticeship and more or less be in charge of their apprenticeship, then I don't see how the college is going to be effective in the trade as a whole.

I think those are the primary reasons.

Mr. Reza Moridi: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We're going to have to move on to the Conservatives. Mr. Bailey?

Mr. Robert Bailey: Okay. I just have a short question. Thank you for your presentation. Is there anything more you'd like to say about—I know in your summary you say about the inversion being paramount to the success. Is there anything you'd like to add that isn't in here, just to—

Mr. Shane McCarthy: I suppose my first thought and statement around that is that we have to make sure, to tradespeople, that the college is a college for tradespeople. Presentations from the nurses and the teachers—my wife is a teacher as well; they don't feel that their colleges are necessarily colleges for them. They feel otherwise.

We don't want that to happen. We want the college of trades to be envisioned by tradespeople as a college for them, working for them, doing for them and making their world and the world around them better.

Mr. Robert Bailey: Good enough. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation, and thank you for being here this morning.

JEFF JENKINS

DR. ROBIN BREDIN

The Chair (Mr. Lorenzo Berardinetti): We have one last deputation for this morning, and that is Mr. Jeff Jenkins and Dr. Robin Bredin. I hope I pronounced that properly. Please come forward.

Dr. Robin Bredin: Good morning, Mr. Chairman.

The Chair (Mr. Lorenzo Berardinetti): Good morning. Please have a seat. There should be some water—

Dr. Robin Bredin: I'd prefer to stand, sir. My last name is Bredin, first name Rob, PhD in education. I'm at 184 Broadway, Orangeville, Ontario. I have with me this morning, sir, Mr. Jenkins, first name Jeff, who's at 698 Kitchener Avenue, Fergus, Ontario.

Sir, we appreciate the opportunity this morning—

Mr. Rosario Marchese: Robin, in order to record you, I think they need you to be seated.

Dr. Robin Bredin: Thank you, sir.

The Chair (Mr. Lorenzo Berardinetti): Yes, please be seated. You have 15 minutes to make your presentation.

Dr. Robin Bredin: I've got a PhD; 15 minutes is no challenge.

The Chair (Mr. Lorenzo Berardinetti): Take your time.

Dr. Robin Bredin: Good morning, sir, ministers, MPPs, ladies and gentlemen, we appreciate sincerely the opportunity to be here to speak to you this morning.

When I first met Jeff, I understood that he was the quintessential cable guy monoglot, but he had concerns about where the essence of the industry—particularly the contractors in this industry—was. We all hear—and I read in the paper the other day where Mr. Nadir Mohamed said that Rogers, for example, had revenues last year of \$11.3 billion.

As a teacher and professional educator in the province of Ontario, teaching courses like careers and what children will do to be meaningfully employed in the future, I saw that Jeff was doing something, but that it was a bit off the grid. I've heard someone say that his wife is in the college of teachers; I've been in the college of teachers. I recently let that go because I did not feel it was of me. But I felt with what Jeff was doing, and the dangers and hazards of his occupation as a cable guy—the designation is CATV—he was sort of off the radar. Then we saw this advertised and we felt there was a chance for this occupation to get on to the radar.

Jeff, as he'll explain, works around voltages of 90 volts and under, with amperages that can kill, and the training is, at best, haphazard. Rogers has the nice brand and the nice finesse, but the people who actually do the work, the actual boots on the ground—the term the Americans like so much, “boots on the ground”—the actual men who are out there doing the job, 70% to 95% are contractors, and they're remunerated at a rate of pay, say, between \$17 to \$22 an hour, minus benefits. Jeff—as you'll see, his teeth have not been looked at in decades—and these people are ill-skilled, indifferently trained and not fully apprenticed.

We make a presentation this morning, myself as an educator and Mr. Jenkins as a 25-year man in this field, to appeal to you all that this initiative, Bill 183, that's before the Legislature and the standing committee here be carried forward, not for us but for the next generation of men, and especially as the manufacturing and secondary industries go by the board in Ontario, so that they would have a chance at making decent remuneration—a middle-class occupation with which they may be benefited, have pension plans, dental plans, stuff that, perhaps, MPPs take for granted, and that this be properly credentialized and apprenticed with a four-year apprenticeship.

We're encouraging that CATV, which is a subtrade in a voluntary field, at present, be made mandatory.

Jeff has some experience having cabled out in BC as well. Jeff?

Mr. Jeff Jenkins: Well, I don't know where to start.

The Chair (Mr. Lorenzo Berardinetti): You can use that microphone there, the one with the light on.

Mr. Jeff Jenkins: Okay. I'm terrified. I've never spoken in front of people before so—

The Chair (Mr. Lorenzo Berardinetti): Don't worry about it. Just relax. I'm just as nervous as you are.

Mr. Jeff Jenkins: As safety issues go, all our learning is basically on the job. We have half-hour meetings in the morning, and a little bit of this and a little bit of that. All the things that we learn are basically from senior men in the industry. Hopefully, they've had some kind of technical training behind them—the people that are explaining to you what to do. I think they tell you that because that's the way they were taught, and it's not necessarily that they've had any technical training from recognized schools and such.

Safety's an issue—I'm tongue-tied here.

Dr. Robin Bredin: With the initiative here and with—what I've explained to Jeff is that I'm like a bookcase. He is one of the books that makes it on the bookcase; other people with other experiences in other trades will be other books, and the information we can bring is all good because few people will have as much actual experience in this trade as Jeff. We're here to advocate that this CATV cabling be standardized for Ontario, be brought to a new higher level with CATV.

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The old thing about the cable guy or cable television is very passé, I think being made passé by the advent of the Internet, say, in the last 20 years. Cable is now Internet, it's phone, it's telecommunication, it's at least the veins—maybe not the arteries, but the veins—of the economy, because if one is investing from, say, a rural part of Ontario, one can be buying 5,000 shares of a firm. And if one can't make the trade in the morning, one reaches a state of apoplexy because opportunities are lost. So as our manufacturing and secondary industries go by the board—and they are. If you drive through Smith Falls, as I did this weekend, you'll see Hershey's gone, you'll see in St. Thomas that the factories are gone, and that in Oshawa GM's gone.

How do we replace that? Meaningfully, we can replace it with his style of employment, because these jobs can't be outsourced: They can't be sent to Bangladesh, they can't be sent to China, they can't be sent to Mexico. The jobs have to be done here in the construction sites. Real estate subdivisions seem to keep getting built. So as we peel away good jobs in secondary processing and manufacturing industries in Ontario, certainly in this last decade, what do we look at that will remain? These cabling jobs are integral to the new economy. We hear that Prime Minister Harper wants high-speed Internet into every home. Certainly Mr. McGuinty's online with this.

But with Rogers and other companies—and Jeff is not speaking about his employer or about his contract because his job is imperilled by being here—we're hoping that they can take a more positive leadership approach in this, making sure that the workers on the ground can minimize risk. Jeff has told me that the voltage in some of the boxes he goes into is 87 volts, amperage at 13 amps. Again, these can be deadly. Jeff has told me that when he was first starting out, he knew nothing and in the first six months came close to death seven times. Jeff is like the proverbial cat: He's expended seven of his nine lives.

Jeff, what were some of your experiences in the first six months with the sort of very sketchy training?

Mr. Jeff Jenkins: Well, my training was—you're working with him, and then when I get out in the job site, I understand that he's been doing the job six weeks. Working around roadways and that, we had no training whatsoever. It turned into a happy story, but it could have been—we weren't even aware of pulling steel across the road with cars and that. One car threw it up in the air and another car caught it. A 600-pound reel of steel was ripped off the trailer and we had to slack out, and I saw my friend go sailing that way and I went sailing that way. We both ended up in the hospital, but I just had bruises and that. I had a couple of stitches and was off because it damaged my leg for a bit. I mean, it's—I don't know. Go ahead, Robin. Give me a second.

Dr. Robin Bredin: Again, we're here this morning speaking to standards. In the 1970s, Jeff went to a 48-week course, which was—

Mr. Jeff Jenkins: I was in construction for about seven or eight years, and I thought, if I'm going to stay in the industry—I loved what I was doing—I'll go back to school. At Seneca College, they offered a CATV electronics course, a one-year course. It was a certificate course. After getting out, I went back into construction. I should have gone to Mr. Rogers's system, but because you made more money contracting to start with, I went back into contracting.

I ended up in Kitchener and I went into the electronics part, and that's where I should have used the knowledge I gained at school. But financially, I needed to go back into construction.

His men are treated as tradesmen and they're enumerated as tradesmen, but he only keeps a skeleton crew of supervisors out there. They're all qualified men. He has a lot of in-house training, which we don't have; we have none. We have the EUSA come in occasionally to speak to us about safety issues and that, and that's the extent of our training. There's no coherency throughout the industry. Our company does the training once in a while, the next company mightn't have any training because of the costs associated with it, and another company will invest the money and train their men properly. So there's great disparity from one company to the next. It would be nice to be able to have some young—because our jobs are going to stay around for a long time. They can't do without us. We're the backbone. Basically, anything that these folks do online, send across, that's what we do. We keep that system functional for everybody. When I started, when you built a system, it was like 29 channels of entertainment were provided. Over the course of the years they introduced Internet, which is worldwide, instantaneous communications, and now they've introduced telephones, telecommunications. So we started out as cable TV, we worked our way into a telecommunications industry and it's not at the point yet—I don't know if Bell Canada is deemed an essential service—but they are pretty important for people to communicate, and we're going that way. We are offering and we're growing

our telephone system, so it's getting beyond the simple cable TV concept. It's growing and growing.

Dr. Robin Bredin: To conclude, we generally see there's a qualification void, no uniform standards of practice or training. There's a veritable sea of loosely trained individuals actually undertaking the work in this increasingly complex and invaluable sector as we are moving fully into the information economy.

We'd like to thank, for the ability to make this presentation, our MPP in Wellington, Mr. Ted Arnott, who's been a deeply impressive politician through many years, and especially for fighting for men like us and to keep the Lord's Prayer in the books here at Queen's Park. Is Minister Milloy here today? We'd like to thank him. He has personally communicated with us, corresponded with us. Again, we're not here as men to improve our lot one iota. Jeff's in his mid to late 50s now and he's toward the end of his career. We're simply looking, me as an educator in Ontario and Jeff as a—

Mr. Jeff Jenkins: As a concerned person to maybe make it better for the next generation of people in the industry, sons and daughters.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation. That concludes our time. This committee stands recessed until 2 p.m.

The committee recessed from 1028 to 1401.

UNITED ASSOCIATION LOCAL 46

The Chair (Mr. Lorenzo Berardinetti): Good afternoon, everybody, and welcome back to the Standing Committee on Justice Policy. Our 2 o'clock deputation is Mr. Vince Kacaba. Good afternoon and welcome.

Mr. Vince Kacaba: Thank you all for having me here. As you can see, it's my first time here, so we'll just sort of go with the flow.

The Chair (Mr. Lorenzo Berardinetti): Relax and enjoy.

Mr. Vince Kacaba: Easy for you to say.

The Chair (Mr. Lorenzo Berardinetti): You have 15 minutes. If there's any time that you don't use up, members of the committee will have questions for you.

Mr. Vince Kacaba: Okay. I will try to make it as brief as possible. As a training director, I'm trained to talk, so I can speak forever and a day.

My name is Vince Kacaba. I'm the director of training of the United Association Local 46 in Toronto, the plumbers and steam fitters. Our organization has 6,000 licensed plumbers, steam fitters and welders, and I have 1,100 apprentices. We act as an LAC. I would suggest that we're probably the second-largest group of apprentices in the province after the electricians. So I have an intimate knowledge of apprenticeship, and I have a very deep desire to make sure that this process works properly.

I've been a plumber for the last 25 years and I've made my living at it. There's nothing that brings me greater pride than to say that I'm a licensed plumber in the province of Ontario.

Over the last three or four months, there has been a lot of discussion over this. We made presentations to the Whitaker committee. We spoke with our partners in the mechanical contractors; the Ontario Pipe Trades Council, which represents all the organized plumbers and steam fitters in the province; the Ontario building trades council. I even sit on the Ontario federation's apprenticeship committee. There has been a lot of discussion over this to try to come up with a position that will be the best for the industry and the people of Ontario.

Trade certification is key to our industry. I can speak for construction, but more effectively for the piping trades. The other three pillars—motive—have their own proponents.

Local 46 supports Bill 183. There are a lot of very good options in the bill, but it is flawed. There are several issues that either need clarification or an overall change, in our opinion. I hope you all have my brief. I'm just going to touch on the issues. The synopsis is there on pages 6 and 7. That way, if you have any questions it's easier for me to respond to those.

With no further ado, issue one: We feel that the college of trades has to remain responsible to the Ministry of Training, Colleges and Universities. We have a deep-seated concern about having arm's-length organizations.

We work with another arm's-length organization that is not quite as responsive as we would like, and it causes us no end of grief. When I say "us," I mean labour and our partner mechanical contractors. Actually, the chairman of my joint training and apprenticeship committee is in the room with us; he'll be speaking with another group. But we work together very closely.

Again, we have no doubts that the college has to answer to the ministry. We also feel that in the structure, the membership of all the boards has to come from the bottom up. We're dealing with trades; you cannot have someone who has no knowledge of the trades trying to make decisions. Our feeling is that the membership of all the boards should emanate up from the trade boards. That way, you know that you have someone who can speak effectively on behalf of the industry. I'll cover a bit more of that as I go through my different points.

The second point, and this is probably the most key point and the biggest flaw that we've found with the bill at the moment: You don't include apprentices in this college. One quarter of my membership would not be members of the college. They have to be included. Whether they're full members, whether they're associate members, however it's sorted out, apprentices must be members of the college.

If you don't make them members—and we already run into an issue with completions; now I will have apprentices going, "Why would I get my C of Q? My contractor likes the way I work and pays me the full journeyman rate. As soon as I get that C of Q, now I have to pay X number of dollars." This is another concern we have: There is nothing with regard to the funding in the bill, and I assume that that will be sorted out later, for better or worse. They're going to say, "Why would I become a member? Now I have to pay money to them in addition

to my C of Q licensing. Now I'm subject to potential disciplinary action. If I stay as an apprentice, I don't ever have to worry about that."

This ties in with voluntary trades, which I'll catch up to a little bit later. You also have a concern with the voluntary trades that, again, if you don't need a C of Q, why would you become a member?

Now you have employers who, if you're employing someone with a C of Q, you have to be a member of the college. If you don't employ someone with a C of Q, you don't have to worry. I don't know what the implications for the contractors are, and I have no doubts that they will raise their concerns, but you have just segmented off an entire section of the industry which is outside that.

Basically, now you're dealing with the compulsory certified trades in Ontario, which is only a segment of the industry. Either the college represents all trades, or it's a waste of time. If you tell an apprentice, "I'm sorry, you're not good enough to join the college of trades," what does that say to them? Once you become a journeyman all of a sudden you become a made man or woman, and now you're good enough to join? They'll sit there and go, "Well, why would I want to join then?" Especially in the voluntary trades. "I don't need to join that." It becomes problematic. It will lower the level of credibility of the college, in our opinion.

Again, do I want them to be full voting members or however it's going to be defined? No. They should be members, whether they be associate or have voice but not vote. Whatever the impact is, that's something for wiser minds than mine to sort out, but they have to be members.

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Issue three, the PAC/IC system: Provincial advisory committees are at the heart of our industry. We have a very effective PAC for the plumbers and steam fitters. There is representation from all segments of the industry, union and non-union, from around the province. That needs to take place with the trade boards. Right now, you have two members from each side. There is no way that you can get the proper representation and reflect the needs of the different portions of this province with such a small group.

My suggestion, tying in to number 4, is that you need to really phase in the implementation of this college structure. To try to swallow this all, as my former boss used to say, is like trying to eat an elephant: The easiest way to eat it is one bite at a time.

If you start with one particular pillar—and my suggestion would be the construction—at least now you can work at making sure you get it right. This has the potential to impact on a very large segment of our province for a very long time. We want to get it right.

Why do I pick construction, other than the fact that I'm intimate with it? We work very closely with our contractors; there's a partnership. In construction we realize that if our contractors aren't making money, we're not making money. There's a symbiotic relationship there, to make sure that everyone is marching in the same direction. That goes from the very bottom of our organ-

ization right up to the very top. It's a predominant feature of our organization. We actually have a standard of excellence that dictates to our membership what they're going to do: They're going to be on time every day and give their contractor an honest day's work. That is what is required.

Last but not least, at the end of the day, at some point, the compulsory trades will have to be extended to all trades. If an occupation has been deemed necessary to be a trade, why is it not necessary for it to be compulsory? In order for me to drive a boat, I have to pass a competency exam, as I do in order to drive a car or serve liquor. These are all areas where you have to prove competency. Yet you can have a boilermaker working on massive boilers which, when they explode, will wipe out hundreds of people, and boilermakers don't need to be certified. You can get someone from anywhere to work on it. I mean, it's not rational.

Sprinkler fitters: Get someone in here—no sprinklers in here. Tsk-tsk. Bad. Plumbers always do that. We go in and we look at the plumbing in a house and go, "Jeez." If you bring someone downstairs, you can tell if they're a plumber because the first thing they do is look at the toilets and the piping. I guarantee it. Off-topic; I'm sorry.

Forklift mechanics: They're not compulsory. Get someone off the street: "Hey, this is a forklift. Two things sticking out of the front—up, down. Fix it." And then when it drops down on someone's head and crushes them, people are surprised.

People don't care—this is a very cynical, harsh thing to say, but no one cares until the inquest. That's the bottom line. We don't want inquests. We want it done right.

You know what? There has always been the argument that, if you make trades compulsory, it's going to cost more. Yes, it will. And if you don't make them compulsory, those that are left are the winners because there's no one else out there and now they write their own ticket—something to contemplate.

I tried to make it short and sweet. As you can see, I am sort of passionate about it.

The Chair (Mr. Lorenzo Berardinetti): We've got about two minutes left for questions in the rotation. We're going to start with the Progressive Conservatives. Just very quick questions because we want to stay on schedule. We've got quite a few deputants.

Mrs. Christine Elliott: Okay. Thank you for your presentation, Mr. Kacaba. I'm just really interested in the discussion about the compulsory and non-compulsory aspect of it. When you were consulting, prior to this bill being brought forward, did you raise that as a significant concern? And if so, what was the reaction to that?

Mr. Vince Kacaba: The discussion has always taken place. Obviously, in construction, the majority of the trades are compulsory. But, again, it is our viewpoint that they should be compulsory for the reasons I outlined. At the end of the day, it would be up to the specific trades to make that determination. I wouldn't presume to be arrogant enough to dictate to other trades what is best for them.

Mrs. Christine Elliott: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Marchese?

Mr. Rosario Marchese: We don't have much time, except I wanted to say two things. All the labour groups have consistently said that apprentices should have membership in the governance body. I think they've all said that, and I'm assuming the Liberal members have heard it. We certainly support that. The other one is—from the labour groups, at least—that the membership should come from the trades, in terms of the expertise. That's been consistent with most of you. It's not the case—the appointments' council can appoint whoever they want, it seems. But I wanted to support what you've said. I think the labour groups have all said the same.

Mr. Vince Kacaba: I mean, it makes sense. Why would you have a doctor telling a plumber what's best for their industry? I don't tell doctors what's best for their industry—although I do have some experience putting in medical gas systems.

Mr. Rosario Marchese: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Flynn?

Mr. Kevin Daniel Flynn: Thank you, Vince. My dad was a long-time member of Local 46, so it's great to see you here.

You were saying that what we need is a timely development of the criteria for creating new compulsory trades.

Mr. Vince Kacaba: Yes.

Mr. Kevin Daniel Flynn: One of the college of trades' first responsibilities will be to have a process in place for that, something we've never, ever had in this province before. It's been sort of hit and miss. But we'll finally have a process in place. So I think we're saying the same thing.

Mr. Vince Kacaba: Exactly. Again, there are a lot of things I do agree with. I just wanted to reiterate some of them just to make sure that there are no illusions as to where I stand.

Mr. Kevin Daniel Flynn: Thanks for your support.

Mr. Vince Kacaba: I'm glad your dad was a member of Local 46.

Mr. Kevin Daniel Flynn: He was a steam fitter. He wasn't a plumber, though.

Mr. Vince Kacaba: Oh, that's okay. I'm a steam fitter as well. I have both licences.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That completes all the time available. Thanks for your presentation.

Mr. Vince Kacaba: Can I say one last thing? I understand last week someone raised questions about the application process of Local 46. If any of you have any interest or questions about it at some point in the future, please give me a heads-up. I have no problem explaining exactly how it works.

Anyway, I really appreciate the time. Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): Thank you.

ARBORIST INDUSTRY COMMITTEE

The Chair (Mr. Lorenzo Berardinetti): We'll go on to our 2:15 deputation, the Arborist Industry Committee. Good afternoon, and welcome.

Mr. Peter Wynnyczuk: Good afternoon.

The Chair (Mr. Lorenzo Berardinetti): If you could just identify yourself for the record.

Mr. Peter Wynnyczuk: My name is Peter Wynnyczuk. I'm with the Arborist Industry Committee under the Ministry of Training, Colleges and Universities. Thank you for allowing me to speak today.

The Chair (Mr. Lorenzo Berardinetti): You have 15 minutes—

Mr. Peter Wynnyczuk: Yes. Thank you for the opportunity to be here today to present information and suggestions respecting this forward-thinking intention by the province of Ontario. As a representative of the Arborist Industry Committee, we support the concept of the college of trades.

Having been involved in the formulation of the trade of arborist back in the late 1980s and having grown with this trade, I was fortunate enough to be elected to the position of chairperson of the Arborist Industry Committee, at a time when arborists in Ontario were brought to task by the Ministry of Labour as it related to fall protection. This set in motion a discovery of how there are various regulatory authorities and boards and associations involved in the safety of the workplace and their interrelationship and overlap.

What also became known through this process is the lack of a system to obtain concise and easily obtainable tracking of safety incidents, particularly by trade or trade group. In identifying the injury or incidents, analysis can be conducted to determine if changes to industry practices or training are required. We see that a self-regulated college of trades with dedicated resources and focus on the trades has the potential to provide a mechanism for accomplishing these needed changes in the current system.

The provincially initiated compulsory certification project, led by Tim Armstrong, allowed us to present information and documentation to Mr. Armstrong and his committee on the lack of clarity or protocol on the voluntary/compulsory determination of an existing or new trade and the lack of safety data specific to the provincially recognized trades.

Subsequent to reviewing the final report of the compulsory certification project by Tim Armstrong, dated April 28, 2008, by T.E. Armstrong Consulting, it became apparent that, in my interpretation, the following conclusions were reached:

(1) Lack of accident/incident data relevant to trade sector that could help in determining status of compulsory or voluntary trades;

(2) Lack of easily accessible data related to registrations, monitoring and completions of either mandatory or compulsory trades;

(3) Rate group trades not cohesive/logical, and unable to identify comparable incidents in compulsory or voluntary trades; and

(4) Lack of concise tracking by the Ministry of Labour, Workplace Safety and Insurance Board, and by trade sector, and not definitive enough to help to determine voluntary/compulsory trades that have incidents, as each is tracked differently by various organizations.

Page 60 of his report stated: safe workplace data—lack of data that is usable for this forum. And on page 62 of his report, he identified increased costs and consumer protection, and the need for a Ministry of Labour and Ministry of Consumer Services source of information.

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Also, on the last point, there is an overlap or potential overlap between the various regulators, the Ministry of Labour, the Technical Standards and Safety Association, the Electrical Utilities Safety Association, the electrical safety association and their supporting legislation, which has operational impacts on a trade, depending on the enforcement agency.

The point is the need for standardization through the various ministries, boards, and agencies of recognition of each provincially recognized trade to track data related to health, safety incidents and consumer issues to guide curriculum and training delivery.

As an example, if an arborist working in a tree is injured, then the report to WSIB and, if applicable, the Ministry of Labour should be tracked back to the trade of arborist. Aggregate information, cognizant of freedom-of-information rules, could be presented to the other safety agencies and the college of trades to help determine if there is a gap in the curriculum or training delivery.

This should lead to a single-thread approach for a trade member:

—through their application and registration into a trade;

—education and training;

—upgrading of skills as needed;

—aggregate tracking of incidents highlighted by the WSIB and/or the Ministry of Labour; and

—feedback to the college of trades to review and change, if needed, the curriculum and training delivery aspects.

Also, as regulatory changes are made affecting trade members, this would allow for commenting on proposed changes, as we are standing here today, and notification and implementation after the regulation is passed, as it affects the specific trade.

The above would help each ministry and agency move towards zero incidents and/or accidents at the workplace. Further, if there are consumer issues raised, then there could be follow-up on it in conjunction with the appropriate ministries, if needed, for a joint response or action taken, the premise being that if there is a significant rise in incidents or issues in a trade, then the review of the practice, tool or issue could be checked against the curriculum or delivery agencies, which can be

reviewed, and changes can be implemented in a simple process. If a trade member has received attention due to a consumer concern, the college could have a mechanism to respond to that concern.

In October 2008, the province sought input into the recommendations from the Tim Armstrong report on the proposal for the college of trades. On November 28, I made a presentation on behalf of the arborist industry committee in response to the questions set out by Mr. Kevin Whitaker and his team. In that presentation, a couple of points I bring forward again are—one question posed to us was how the college of trades process should deal with and decide applications for compulsory status.

I've put it in bullets:

- multi-stage process which can either be driven by the government or the industry;

- as with red seal trades, there has to be sanctioning by the trade stakeholders and members, including regulatory authorities and the employers to make application;

- to determine compulsory or voluntary trade based on the health and safety data and risks for the trade; opportunities for improvement in delivery of training; registration of employers/employees based on forecasting of career opportunities; completion rates of apprentices; consumer protection issues; economic impact; and other aspects such as integration opportunities for newcomers to Ontario and those with abilities that can be accommodated.

The above have to be weighted to reflect health and safety as the primary component to help address zero accidents and/or incidents in a trade. Also, we included as a note, justification respecting the health and safety data. The Arborist Industry Committee has for years been trying to seek accident and/or incident data to help focus the efforts of the Arborist Industry Committee. As Mr. Tim Armstrong noted in his report, specific to page 60, section 102: "As previously indicated, the two governmental sources most involved in this critical issue are the WSIB and the MOL, and neither collect data on trades, occupations or skill sets in a manner which enables me to make the comparison between voluntary and compulsory trades, as required in my letter of appointment."

The college of trades could be instrumental in coordinating with the relevant ministries and safety agencies to track training and incident information with respect to a specific trade—incidents highlighted by the WSIB and/or MOL as each agency or ministry moves towards zero incident accidents at the workplace, and, by echo effect, enhance consumer satisfaction of service or products delivered.

In summary, there should be recognition of the provincially recognized compulsory and voluntary trades in terms of their respective regulatory agencies to allow for better incident tracking specific to the trades to determine key areas of concern for enhanced safety training. I've reiterated this many times, it seems. Further, the regulatory agencies should review their mandates over various trade sectors to determine overlap and gaps in the regulations to reduce confusion and enhance safety and consumer protection.

With the federal government moving in the direction of improving mobility of recognized trades across Canada and the existing red seal program, it seems forward-thinking of Ontario to meet the future needs of our trades' ability to compete on the world stage with the development of the college of trades that can adapt to:

- a maturing workforce;

- greater reliance on immigration;

- broader range of skill sets of the population;

- protocols for prior learning assessment in trades expanding employment opportunities;

- expand recognition of trades at the high school-level curriculum;

- enabling new trades to develop and be recognized; for example, damage prevention technician.

In conclusion, with the vision of the framework for the college of trades and support from other ministries, agencies and boards, we can see a future of trained, safe, efficient workers and workplaces contributing to current and future needs from the local to the international working community.

The Chair (Mr. Lorenzo Berardinetti): Well done. There are about six minutes, so two per party. We'll start with the NDP. Mr. Marchese.

Mr. Rosario Marchese: Thank you, Peter. I'm assuming you raced through this because you wanted to get to questions. Is that it? Because I missed the entire report. As I get older, it gets more complicated. You would understand that?

Mr. Peter Wynnyczuk: I'm a fast reader when I'm nervous, yes. Sorry.

Mr. Rosario Marchese: Holy cow. I was going to stop you at the beginning.

"In summary, there should be recognition of the provincially recognized compulsory and voluntary trades in terms of their respective regulatory agencies to allow for better incident tracking specific to the trades to determine key areas of concern for enhanced safety training." Is that the recommendation you're making? Is that what I'm understanding?

Mr. Peter Wynnyczuk: That's what I'm trying to say should be considered by everybody, yes.

Mr. Rosario Marchese: So how do you build that in the form of an amendment? What would it look like?

Mr. Peter Wynnyczuk: If it's not in the form of an amendment to the bill, at least it should be set out in the tone or in the rules of creation of this group, the college of trades. There should be a mandate in there that specifies specifically looking at an inter-ministerial group to be used to set up this program of the tracking, because each ministry or agency would have to change their working practice to accommodate that. On the WSIB form, when there's an incident, there would have to be a box added on to it to indicate the trade group, and then everybody would have to also be advised of the trade group number that would be reflected in that. That's the baseline thing we're looking at. So it has widespread effects on other ministries, agencies and boards.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the Liberals. Mr. Flynn?

Mr. Kevin Daniel Flynn: I suppose I should outline from the start that it's the intent of the bill to give the college the ability and the skills it needs to get the research done that it needs to get done, and I think a lot of that it will be deciding itself—what sort of data it needs.

Can you expand a little bit on the role that you see between the college and the WSIB again?

Mr. Peter Wynnyczuk: The intent is that if we have a large number of incidents in a particular trade that are tracked—I'll give you an example. If you're cut by a saw and the person filling out the WSIB form puts "cut by saw" on it, it's not necessarily reflective to an individual trade group sector—or it could be an occupation, based on what the WSIB has within their rate group. Really, what I'm saying is there should be a review between the WSIB rate groups and how they're structured—do they recognize any of the trades? Then you've got the Ministry of Labour. How do they track incidents based on a particular sector or trade? Those have to be brought together or reviewed to see how they fit in with what we're looking at here.

Mr. Kevin Daniel Flynn: So once the college is formed, should this bill be successful, which I hope it is, then this should be a consideration of the college?

Mr. Peter Wynnyczuk: I think it should be a very important consideration, because we make decisions much like when we have a plane crash and do the post-analysis, which, unfortunately, is way too late. If there are opportunities to head things off at an earlier stage before trends start, then at least we can be in a better position to be proactive.

Mr. Kevin Daniel Flynn: Thanks for coming today.

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to the Conservatives. Ms. Elliott.

Mrs. Christine Elliott: Again, just to follow up on the question that Mr. Marchese asked you, in terms of the amendments and the specific things that we should be building into this bill: Are there some suggestions that you could make to us to guide us as we consider this matter further?

Mr. Peter Wynnyczuk: There is one section that the Lieutenant Governor does have the ability to provide for functions—"The minister has the following functions for the purposes of this act"—it's actually clause 64 on page 38. There could be something introduced into that section—sorry, maybe I'm mistaken here. There was something that the Lieutenant Governor had in terms of dictating some of the roles of the board. So that could be something that, through the Lieutenant Governor, in this bill, could be introduced: "The Lieutenant Governor shall indicate that the board of directors has to have this inter-ministerial or WSIB or safety boards and agencies group set up." That's one way to approach it, as a suggestion. I don't have specific wording, unfortunately, but that's something to contemplate.

The Chair (Mr. Lorenzo Berardinetti): I'd like to thank you for your presentation—

Mr. Dave Levac: On a point of order, Chair: Can we get that in writing? If you could find that at a later date, and just submit it to us.

Mr. Peter Wynnyczuk: Certainly. Is it possible for me to e-mail it to the clerk?

Mr. Dave Levac: I'd appreciate that.

Mr. Peter Wynnyczuk: We'd be happy to.

The Chair (Mr. Lorenzo Berardinetti): Thank you. She'll check with you on that. Thanks for your presentation.

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ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next presentation, which is the Ontario Public Service Employees Union. Good afternoon.

Mr. Smokey Thomas: Good afternoon.

The Chair (Mr. Lorenzo Berardinetti): Welcome.

Mr. Smokey Thomas: I have with me on the left, Moe Blais. Moe's on the ministry employee relations committee for the Ministry of Training, Colleges and Universities, and his work life is—what do you call yourself, again?

Mr. Moe Blais: Employment and training consultant.

Mr. Smokey Thomas: And on my right, I have Deb Gordon. Deb's the chair of the community services divisional council in OPSEU. She works in child and youth services, and she's a social worker by trade, so if you have any real technical questions, I'll refer, and we've got some other people with us who were part of formulating our response.

The Chair (Mr. Lorenzo Berardinetti): Good afternoon. Just for the sake of Hansard, we have your name listed as—

Mr. Smokey Thomas: Warren Thomas, Smokey Thomas, president of OPSEU.

Good afternoon. I am Smokey Thomas, and I am the president of the Ontario Public Service Employees Union. We represent over 125,000 members in many areas of public service throughout the province of Ontario. Our members in the broader public service, we call the BPS; the colleges of applied arts and technology, CAAT; and the Ontario public service, OPS, play an integral part in the operation of the apprenticeship system in our province.

We anticipate that a considerable number of our members will be affected by Bill 183, and in light of that, I appreciate the opportunity to present our views pertaining to the bill to you today. My presentation will primarily focus on the following five themes: the Ontario public service; the importance of quality public education; membership of the college of trades; the much required shift from discipline to enforcement; and finally, the issues around governance.

Ontario public service at the front line: OPSEU strongly supports public services and is opposed to any downloading of current ministry functions to the college

of trades. OPSEU is convinced that the government has to continue to be an active and visible partner in the apprenticeship system. In particular, the government, through the Ministry of Training, Colleges and Universities, which I will refer to as MTCU from here out, should maintain its responsibility for promoting apprenticeships, setting training and certification standards, enforcing training standards, and certifying and licensing apprentices.

One of the most efficient ways to achieve the government's goal of enhancing the quality of apprenticeship training and expanding the system would be to re-establish the apprenticeship branch of the MTCU. A revitalized apprenticeship branch with a renewed mandate would be able to focus on ensuring that Ontario's apprenticeship system would be a leading example of quality and accountability.

If the college of trades is to succeed it must remain closely integrated with the government. The college of trades must work closely with the MTCU and other ministries involved in apprenticeship. The college of trades must have a clear relationship to the minister so that any recommendations it makes are received at the highest levels of government.

Successor rights: OPSEU strongly recommends, given the fact that Bill 183, section 64, retains ministerial responsibility for apprenticeship, that there be no reduction in either the current number of positions or hours worked to administer and enforce apprenticeship agreements and training requirements. We further recommend that all employees hired under Bill 183 as employees of a trades governance structure be considered OPS members with full successor rights, seniority and pension benefits as those currently working on apprenticeship and other relevant departments within the MTCU.

The significance of quality public education: We maintain that the public post-secondary education system, and particularly the community colleges, represent the best avenue for the delivery of the in-school portion of apprenticeship training. For many people, their only exposure to post-secondary education will be through the apprenticeship system. The skills needed by industry and society are not only technical but also encompass communications, teamwork and management competencies. The faculty members who teach in the community colleges are professional in their field of expertise and they are also professional educators. Along with the experienced and well-qualified staff in the public colleges of Ontario, they are able to provide the type of education that will produce well-trained trades workers with a broad array of skills to succeed in industry and society.

Membership of the college of trades: We believe that the membership of the college of trades should be certified journeypersons and registered apprentices, only in the compulsory trades. Voluntary and unrestricted trades ought to be exempted from the college of trades. A current non-compulsory professional body can always decide to move and become a compulsory trade if that is what it chooses, and thus be part of the college of trades.

Also, given that there are already certain existing governing colleges for certain voluntary and unrestricted trades—the College of Early Childhood Educators would be an example—another regulatory body like the college of trades will only make the situation confusing, and causes the fear of creating a two-tier system. If required, professional bodies that currently don't have their own governing college may pursue the option of creating their own in the future.

The much-required shift from discipline to enforcement: There is a myriad of disciplinary procedures outlined in Bill 183. Indeed, the text and structure of Bill 183 is nearly identical to the professional colleges designed to govern teachers, nurses, social workers and early childhood educators. As such, Bill 183 creates conditions in which a written complaint from a member of the public is all that is required to trigger disciplinary procedures against college members. I can tell you from personal experience with the College of Nurses, it is a problem, an expensive problem for the employers and us.

As it is written, two thirds of Bill 183 is devoted to disciplinary procedures while lacking the bylaws and regulations that could make the apprenticeship system better. Based on experience with the professional colleges upon which Bill 183 is modeled, OPSEU has considerable concern about the potential harassment of trades workers. It is worth noting that any unnecessary harassment of trades workers may very well discourage people from choosing a career in the trades, and those undermine the stated objectives of Bill 183.

In his review of compulsory trades, Tim Armstrong noted that far more scope is needed to ensure that employers, especially those in the compulsory trades, comply with a variety of rules, regulations, codes and standards. Most would agree there is a need for additional enforcement in the area, and this is where we need financial and human resources to enforce existing regulations. Without adequate inspectorial staff, no regulation in the world can have meaning.

This is where Bill 183 should be focused, developing a unit that is adequately staffed, sufficiently authorized and appropriately empowered to create real consequences for employers and workers who are in violation of regulations and who put public and worker safety at risk.

Governance: OPSEU has considerable concern with the current governance structure of the college of trades as outlined in the bill. There are a number of jurisdictional problems embedded in Bill 183 that, unless corrected, will obstruct the progress of any trades governance body. The most obvious is the duplication of college membership embedded in Bill 183 by virtue of the existence of professional colleges for early childhood educators and social service workers.

We strongly oppose the mandatory imposition of a new governance structure on workers already enmeshed in existing colleges. Ideally, we recommend that voluntary and unrestricted trades be exempt from the college of trades.

Furthermore, the fees associated with Bill 183 for both employers and employees in these sectors are especially

worrisome, as many agencies already struggle financially and the workers in these categories are not typically among the province's top income earners. These workers should not be obligated to pay twice for multiple governance structures.

In terms of the board, the college of trades should be governed by a board that consists of representatives of the participants in the apprenticeship system, including employers, private and public sector unions, journey-persons, apprentices, educators and the government. The representatives on the governing body should be selected by their constituent groups. The governing body should also include representatives from groups which are under-represented in the current apprenticeship system, who could then lend their perspective to the deliberations.

One model that could be used would be the Canadian Apprenticeship Forum, which includes representatives from business, labour and government, as well as educators, persons with disabilities, women, visible minorities and aboriginal persons. The Canadian Apprenticeship Forum also uses a consensus-based decision-making model that ensures each constituent group is able to fully participate in the process.

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In conclusion, it is unfortunate that Bill 183 fails to address the Mike Harris legacy of the Apprenticeship and Certification Act, or ACA, and offers a model that appears far too complicated to enhance the implementation of decisions and far too oriented on disciplining trades workers to be effective. We at OPSEU are concerned that the structures envisioned by Bill 183 as drafted will be top-heavy, top-down, unaccountable and lacking a sufficient degree of expertise in the skilled trades. It will become immediately mired in jurisdictional disputes and bogged down in bureaucracy. As a consequence, Bill 183 as it stands will fail to establish an effective governance structure that could promote authentic trades and apprenticeship training in Ontario.

I thank you for listening and look forward to answering questions, and I would make this offer: I don't know how you work after you do your committees, but if you need any more information or want to sit down and have a round-table chat with anybody in our organization, I'd be more than happy to facilitate that. The reason I offer this is that with me today, and employed by the government already, are front-line workers who understand these issues inside and out, have a very unique, on-the-ground perspective and, I think, would bring a lot to the table to influence your decision-making. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation. That leaves about four minutes in total, so just under a minute and a half per party. Mr. Flynn?

Mr. Kevin Daniel Flynn: I would just note that my understanding is that the exemptions will be dealt with by regulation. We talk about the potential harassment of trades workers. We've had a lot of the skilled unions come forward already. None, to my knowledge or recollection, have mentioned that as a concern. Have you talked to them about that?

Mr. Smokey Thomas: Because they haven't had the luxury of experiencing it yet? I'm a registered practical nurse by trade. I worked my entire career in a psychiatric hospital. Many of us are hauled before the College of Nurses, where you are guilty until you prove yourself innocent, because somebody has made a complaint. It does not matter if you are innocent or guilty; it stays on your record forever. You can be absolutely exonerated; it's still a blight on your record.

Once you get into this, you will find that some people complain because they were unhappy with the price of the job. I don't think you understand exactly the door you're opening here.

Mr. Kevin Daniel Flynn: So you will talk to them.

Mr. Smokey Thomas: I absolutely will. I'll be at the OFL next week.

Mr. Kevin Daniel Flynn: Mr. Levac has a brief question.

The Chair (Mr. Lorenzo Berardinetti): Mr. Levac.

Mr. Dave Levac: Thank you, parliamentary assistant. Smokey, thanks for the presentation and the eye-opener from the perspective of OPSEU. Moe and Deb, thanks for the work that you do.

I am tweaked by some of the concerns you have raised. Obviously I want to assure you that they are being listened to and will be passed on to those who are analyzing the bill and its impact. You are aware that there are some people supporting it within the trades who believe that what you're saying might not come true. Having said that, the one piece you did say that really tweaked me, and would have a major impact in Ontario, is the underground economy. Do you believe that the creation of this college may indeed start us down the road toward that, as long as some of the things you're talking about are addressed?

Mr. Smokey Thomas: I agree with you. It does have the ability to address some of that. All I'm saying is that we believe you need to be very careful in how you do it, and that it's focused more on discipline than on enforcement. You have already at your disposal many tools, regulations and laws that you can use which, if you had the appropriate number of staff in the OPS and the various ministries, you could actually go out and enforce. This is seen by many as being punitive rather than trying to enhance and build. I believe the intent here is to build something positive, and we see that.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the Conservatives. Mr. Bailey?

Mr. Robert Bailey: Thank you, Smokey, Ms. Gordon and Mr. Blais, for coming in today. You speculated on some numbers—your membership could be affected with layoffs and that. Have you any idea on those numbers? Before you comment, the second part would be that I'm glad you brought up the part about the colleges and that you're worried about the harassment of your members and that. Maybe we can talk offline about that sometime. But could you speculate on the numbers? Do you have any idea on that?

Mr. Smokey Thomas: I think it would depend on how it's actually implemented at the end of the day. I don't have a hard and fast number, but it could be several hundred. Of course, they all have rights and entitlements in the collective agreement that we would vigorously enforce, but we'd like to strike a table before that happens to work it through, so that we could maybe avoid a whole bunch of disputes.

Mr. Robert Bailey: Good. Thank you.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the NDP. Mr. Marchese.

Mr. Rosario Marchese: Thank you, Smokey and others. I think you raised the question, and many others have raised the question, that many of the members you represent are already subject to other colleges that they're part of, with a whole list of regulations and other compliance measures that they're subject to. Then you've got another board that's set up with different rules, and they'll be subject to two sets of rules. That presents a problem for your members. Do you want to comment on that?

Mr. Smokey Thomas: Why would you pay twice to have somebody try to take your licence away? That's how workers view it.

Interjection.

Mr. Smokey Thomas: No, it's just how we view it. I've been at the College of Nurses. I'm still in a legal dispute with them, and I intend to win.

What you run the danger of creating, particularly for social service workers who took seven strikes a year ago last summer to try to raise it up—we lobbied the government, and the government pumped a bunch of money into the sector, but they're still borderline. If you've got to pay an additional licensing fee, that hurts somebody who's living just above the poverty line. Some of the agencies aren't lying when they come to the table and say, "We don't have any disposable money," because of their fixed costs, and when you see their books, they're telling you the truth. How do you bargain a deal, and then how do they actually come up with the money to pay it? Are they going to get increased funding to pay the employer share? Do you know what I mean?

How workers view licensing: I remember that the social workers of Ontario approached me once and wanted me to help them form a college. I said, "Why on earth would you want to do that to yourselves?" The whole premise of a college is to protect the public—noble, absolutely noble—but the way they're currently constructed is problematic.

I would suggest that out of this you have the opportunity to create something that is very, very positive, that brings people to work together rather than bringing people to do this: We have two dedicated staff people in my organization and a couple of law firms, and all they do is represent people at licensing bodies because of the complaint procedures.

If you go back and look at all that, we'd be very, very happy to come back and talk to you more about how you can make it into a positive rather than a negative in the

workers' view, because in time you run the extreme risk and, I think, a high probability of it becoming a negative rather than a positive. I think everybody's well intended to make it positive; do you know what I mean? Does that help?

The Chair (Mr. Lorenzo Berardinetti): Thank you for your very thorough presentation. Unfortunately, time has run out.

COLLÈGE BORÉAL

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our 2:45 presentation, Collège Boréal. Good afternoon, and welcome to the committee.

Mr. Denis Hubert: Good afternoon.

The Chair (Mr. Lorenzo Berardinetti): You have 15 minutes to make your presentation. Any time you don't use will be taken up with questions from the committee members. Would you be kind enough to introduce yourself and those who are with you who will be presenting today?

Mr. Denis Hubert: Yes, my name, mon nom, c'est Denis Hubert. I'm the president of Collège Boréal. I have, to my left, Daniel Giroux, the vice-president responsible for trades at Collège Boréal, and to my right, Christian Paquette, our legal counsel with Heenan Blaikie.

Mr. Chair, representatives of the government, c'est un plaisir, it's a pleasure for me to have a couple of minutes to address several issues. I will be mostly concentrating on the francophone aspects of the trades and their importance, and how I see that the college of trades can positively influence the outcome.

A brief note on who we are: We're the newest college on the block. We're only 15 years old this year but growing very well. We're a community-based college. We work very, very closely with our community. We've got seven campuses and 48 offices in 38 cities across Ontario. We cover from Hearst down to Windsor, the last new acquisition that we just opened about three months ago.

Our major mandate is access to education. In this case, I will be talking about access to education in the trades. We've had good successes in the past: the highest retention success rate in Ontario among all colleges in Ontario, the highest diploma satisfaction across Ontario and the second-highest employment rate across Ontario. What I'm telling you is that the college is working. We're doing good work. Over 11,000 students have graduated from the college. So we're moving in the right direction.

But we have challenges. One of those challenges is the threats, les menaces, that we have. Presently, as you probably know, Mr. Chair, 20% of francophone students getting out of grade 8 don't continue on to the francophone system. Kathleen Wynne is very well aware of that situation. One out of every two students coming out of secondary school does not continue their education in French, en français. They move on to English training. For a lot of issues—and a lot of those issues have already

been addressed to the Ministry of Training, Colleges and Universities—some of those are based on lack of facilities, programs that are not there at present. There are institutional challenges and systemic challenges.

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In the report, we submitted to you quite a number of stats for your perusal. If you look at the report, it's anglais/français, so you could just flip it over in case you open to the wrong page. So just flip it over, okay? Basically I applaud, as a member of the college of presidents of colleges in Ontario—and I also sit on the apprenticeship steering committee for Colleges Ontario, so trades are a very passionate issue for me, both as a college president and as a francophone. So I applaud Colleges Ontario, which probably has given their presentation and, if not, they will pretty soon, whereby Colleges Ontario recommends that the college of trades also be assigned the relative responsibility of la Loi sur les services en français. I applaud very much Colleges Ontario for moving in that direction.

Basically the recommendations that you will find in the document—I think there are 10 recommendations there for you. I will not read through the 10 recommendations, that's not the purpose, but I will give you a résumé of probably the most important parts of the recommendations.

The recommendations are based quite a bit on la Loi sur les services en français, the French Language Services Act; the Regulated Health Professions Act; the Ontario College of Teachers Act; and the Local Health System Integration Act, the LHIN act. Also, there's a sideline in there of the Official Languages Act. As you probably know, it's its 40th year. We're celebrating that at the federal level.

What we've done is we've gone through the different legislation that the government has gone through in the past number of years. Basically what we're saying is that there might be a slight oversight in the legislation that is there. The Legislature has recognized the existence of francophones in Ontario, the important role of francophones in Ontario, and has moved once step further—and I applaud them for doing that—in integrating into those different acts the importance of l'Ordre des métiers en français, and so on and so forth.

In the recommendations we're basically trying to address what the potential oversights are. I will draw your attention to three recommendations if I still have time.

Recommendation 1: Given the important number of francophones, because over 40% of the workforce in northern Ontario is francophone—in the workforce and in the trades—we represent a high importance of tradespeople in northern Ontario, even though we only represent about 26%, 27% of the population. So we recommend to you that the college of trades be a designated agency provided under the French Language Services Act, and your solicitors will be able to advise you on the impact of that.

I think some of the presenters there can link into the presentation I'm doing now.

Recommendations 2 and 3: To assist the planning of French-language apprenticeship services, the Ontario College of Trades—l'Ordre des métiers de l'Ontario—should be required to keep records on the language characteristics of its members, as per the Regulated Health Professions Act, the same thing you were doing on that side. I'm open to questions on why we want to do that.

Recommendation 4: The Ontario College of Trades should identify and record the language preferences of each college member and identify the language preference of each member of the public who has dealings with it. What is happening, in a nutshell, is that the school board system, or the Ministry of Education system, has a database of students—who they are, where they come from, where they were born, so on and so forth. Colleges—we have our own data. It's not the same database as that at the school board. Universities have their own data. The apprenticeship division has their own data. There's something wrong there. There has to be one database. A student in my college might come from the post-secondary—close to 15% come from university, back to college, some come through the apprenticeship division, and there's no proper tracking right now of that same client moving through those different doors. So that has to be addressed, and (b) so that I can do my job, I have to have access.

As a TDA—we've got 18 TDAs—trade-designated agency, for trades that we give to the MTCU, I have to be able to know where the francophones are within the 3,700 registered apprentices in northern Ontario so that I can meet them, talk to them, encourage them to go into the trades. Right now I don't have access to that. As an educator, how am I supposed to do my job, and how am I supposed to do it to make it such that in a couple of years from now I will not be losing one out of every two students who is moving away from the francophone system of education?

The recommendations are there, and they're very light recommendations, very light amendments that could be brought to the act. I think they should be done. The inspiration is what the government has done for previous acts. Merci. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation. We have just over six minutes for questions. This time, we'll start with the Conservatives. Ms. Elliott.

Mrs. Christine Elliott: Thank you very much for your presentation. I do just have a question on recommendation number 2, where you indicated you could give us reasons why the college of trades should be required to keep records on the language characteristics.

Mr. Denis Hubert: Yes. Thank you very much for the question. We've been having some deliberations with the government administrators and officials from the apprenticeship division on that. For example, if you come from a local school board, I can meet the school board director; we share files, I know where you are, the challenges you have, and so now I can work to make sure I can

encourage you to move into such-and-such a trade or profession.

What I'm asking for is the same right. The people who are presently in the temporary tanks, the 3,700 apprentices who are in the system—in order for me to do a proper job, I have to know—because I am an agency, and what we're being told is that under the privacy act, I'm not privy to that information. I'd like to contest that, because I am a designated agency under the Ministry of Colleges and Universities, so let's make it such that I can do a proper job. I have to know who my client is, where he or she has been and where he or she wants to go. If I don't have that information, it's harder for me to plan the upcoming programs and courses, and if I can't meet you, as I can—at the college, every year, about 10,000 students come to the college to visit us, to meet with us, to meet the faculty, the teachers. In the apprenticeship division, we can't do that. They have to be able to come and see the shops. The biggest scare they have, they say, "Denis, I don't know all the proper French terms. Are they terms from France?"—which is not the case. We're not doing that. We are producing the best tradespeople in Ontario. They have the ability to work in both languages, and we're furnishing 40% of the manpower in northern Ontario. So we're doing something right there. But I have to know who you are and where you come from.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on to you, Mr. Marchese.

Mr. Rosario Marchese: Denis, you've raised important concerns. My question is, did you raise these concerns with Mr. Armstrong, and did you raise them with either the parliamentary assistant or the minister or their staff? Why haven't any of the recommendations you're suggesting been integrated in the report? I'm not sure I understand.

Mr. Denis Hubert: Yes. It goes far back. I used to be at the La Cité collégiale before, and I've moved now as president over to Boréal. I was partly responsible for setting up trades in Ottawa, as I am now. It has always been a challenge. I know that they're working on data banks. They had computer problems, they had challenges in setting up a new data bank system and so on and so forth. I say, 'Hey, I sympathize with that, but make it happen.'

Second, we're having challenges, and this is fairly recent, because we want to have access to the francophone basins that are in there. One of the major challenges, in answers that we've been getting back, is that, "Maybe you don't necessarily have access to that type of information." So I do not know the level of readiness of that information. Have we asked for it? Yes, we have. We've moved through different channels to ask that question, and we need to have an answer to that. We have not received an answer to that.

The Chair (Mr. Lorenzo Berardinetti): Mr. Flynn?

Mr. Kevin Daniel Flynn: I just wanted to thank you for your presentation. Mr. Levac has a question, I believe.

The Chair (Mr. Lorenzo Berardinetti): Mr. Levac?

Mr. Dave Levac: Thank you, Mr. Chairman, and thanks to the parliamentary assistant. I appreciate your presentation very much. If I'm hearing this right—and I want to just bring clarity to my thinking—insomuch as the legislation itself, if you take your concern that has been raised on the language side and it becomes a universal application, as opposed to fragmented forms and fragmented requests for information and data on languages and probably other information that you and others would find useful, if there were to be a discussion on a universal application of how that information is shared, how much is collected, what is collected and who it goes to, that would satisfy the major part of your concern, and the legislation itself would not be troublesome to you?

Mr. Denis Hubert: Yes, exactly, because we think we're partners in this. That's probably the bridge we have to traverse. We're much more partners than a lot of people think. As colleges in Ontario, we deliver close to 83% or 84% of apprenticeship courses in Ontario. So I want to help the ministry move forward. I want to have more tradespeople in there, and I want them to have better training and good jobs. To do that, I only have part of that equation.

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On top of that, when I do submit a request for information, there has to be an overlying philosophy from the college of trades, as from the ministry, as from l'Office des affaires francophones, saying that, hey, there's a French Language Services Act. There's a philosophy under that act—it was put there by Bernard Grandmaître a couple of years back—and we have to respect that. That has to now trickle down and say what the tools are, to answer the Legislature, that say we do have une Loi sur les services en français.

Mr. Dave Levac: All designed within the legislation?

Mr. Denis Hubert: Yes.

The Chair (Mr. Lorenzo Berardinetti): I'm going to have to jump in there, because we have to stick to the schedule.

Mr. Dave Levac: Oh, okay. Sorry, Mr. Chairman.

Mr. Denis Hubert: Yes, absolutely.

The Chair (Mr. Lorenzo Berardinetti): If you want to, you can take it outside for a little bit.

Mr. Dave Levac: Take it outside?

The Chair (Mr. Lorenzo Berardinetti): If you want to ask the question outside for a moment. But I just want to make sure we stay on schedule, because there are quite a few other people here.

Thank you for your presentation. We have all the information here. We will be considering it next week, when we meet to consider the bill. Thank you for your time.

M. Denis Hubert: Merci.

COUNCIL OF ONTARIO CONSTRUCTION ASSOCIATIONS

The Chair (Mr. Lorenzo Berardinetti): The next deputation, scheduled for 3 o'clock, is the Council of

Ontario Construction Associations. Good afternoon, and welcome to our committee.

Mr. Ian Cunningham: Thank you. Good afternoon, Chair and members of the Standing Committee on Justice Policy.

My name is Ian Cunningham. I'm the president of the Council of Ontario Construction Associations, best known as COCA. Just for your information, COCA is a federation of 31 construction employer associations that operate for the most part in the industrial, commercial, institutional and heavy civil parts of the construction industry. That's to say we do everything but building homes and condominiums. We have served as the strong and united voice of our members for more than 30 years.

It is my pleasure to have the opportunity to appear today and to provide input concerning the creation of the college of trades.

COCA supports the high-level goals of Bill 183: to elevate awareness and improve the image of the skilled trades, to encourage more people to consider careers in the skilled trades, and I should add, to produce here in Ontario some of the best-skilled tradespeople in the world. We believe most sincerely that work in the skilled trades is both important for our society and personally fulfilling, satisfying and rewarding.

While it can be said with justification that every industry is unique, there are a number of features that make a construction work site significantly different from a hairdressing salon, an auto repair shop, a commercial kitchen, a factory floor or most other typical trade workplaces that are worth highlighting here. Some of these factors are:

—The physical shape of the workplace changes every day as a project advances from start-up through its successive stages of construction to completion.

—At any one time, there are workers from many different employers or contractors working together on a job site, and teamwork and flexibility among crews are the hallmark of a successful construction project.

—Projects for subtrades may be of short duration, and a construction worker may work for many different employers or contractors through the course of a year.

—A unionized construction employer does not have the ability to hire workers based on their experience, background, technical and interpersonal skills but simply accepts the workers provided by the hiring hall.

Without wanting to overstate the importance of the industry, the construction industry is an enabling industry that makes most other industries possible. That is to say we build the stores, warehouses, factories, offices, schools, hospitals, police stations, courthouses, pubs and resorts. We build most of the places where Ontario works and plays.

The construction industry has an existing and active array of provincial advisory committees and a successful provincial labour-management health and safety network.

While COCA agrees with the broad goals of the bill, it would establish a college of trades with a complex governance structure that provides a one-size-fits-all ap-

proach to four groups, or trade divisions, as they're referred to in the bill. Each of these groups has its own history, culture and business structure, and in this regard we have four major concerns about the college which we would like to raise at this time.

The first is the matter of ratios and trade status. I would say at the outset here that, as a matter of internal operating policy, COCA does not involve itself in labour relations issues. This is because members of our federation operate in both unionized and non-unionized sides of the business, and we want to protect those relationships and we want to focus on those things that make us strong together and not on those things which are different. However, we will provide today some comments on the processes outlined in the bill for determining trade status and journey person-to-apprentice ratios to which the bill gives considerable attention.

First, ratios are largely, if not exclusively, an issue for the construction industry and the construction trades. They are currently prescribed by LGIC regulation and also bargained through the collective bargaining process. We question the need to put processes in place for all trades in all divisions of the college that apply only to the construction trades.

Secondly, Bill 183 proposes that determinations on ratios and compulsory trade status be made by a three-person review panel whose members are selected from the roster of adjudicators. The appointments council has the responsibility for maintaining the roster of adjudicators whose members—the number is unspecified in the bill—"shall be capable of, and shall act, in a neutral and impartial manner." There is no margin for error in the selection of members of the roster of adjudicators, and the appointments council must give extremely careful consideration to these judge-like appointments.

Finally, as outlined in the bill, there will be no appeal of the decisions made by a review panel. It is unrealistic to believe that a panel of three people, no matter how wise, no matter how well-gifted with superior thinking abilities, will never make an improper judgment on these matters of high importance. Therefore, we recommend that the decisions of the review panels be subject to the normal appeal mechanisms for administrative tribunals in Ontario, which is judicial review.

Moving on to our next point, the matter of transparency and accountability of operations of the college: It's absolutely critical that the college of trades' long-term strategy and operational planning, execution and results are fully transparent for all stakeholders to see. If the college is to earn the support of stakeholders, it must operate honestly and openly. It must empower its stakeholders to hold their college accountable by providing them with all the information they need. The college must have a thirst for accountability. It must be driven to be held accountable by its members. It must strive to be the best college that it can possibly be, so it must operate openly and honestly, providing the fullness of information so that they can be held accountable.

In a sincere desire to be held accountable, the college must develop and publish measurable operational object-

ives, tactics and budgets that are aligned with its strategic goals, and it must not be shy to report on both its successes and shortcomings at least once every six months. While these reports should not focus only on financial performance, stakeholders will demand value from their college and will require visible proof that their membership investment in their college is being spent in the most effective manner.

Bill 183 would establish a nine-member appointments council—eight members plus a chair—responsible for appointing members of the college's board of governors, divisional boards, trade boards and maintaining a roster of adjudicators. Once the bill is passed, the appointments council will also serve as the college's first board of governors, as the new organization transitions from start-up to full, operational status. We strongly recommend that at least one representative of construction management be appointed to the appointments council and subsequently to the permanent board of governors. We believe that the important enabling quality of the industry, its mature structures and its scale relative the other divisional trade groups that make up the college make this an entirely reasonable request. We believe the experience and perspective of construction management is an essential component of the appointments council and the board and that it would be an oversight not to include someone with that background.

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In the college's governance structure, the bill prescribes a 21-member board of governors as the governing body for the college, with four divisional boards, one of which, of course, is the construction divisional board, serving as first-tier committees. Under the divisional boards are trade boards which, without obvious reason, are limited to only two employer and two employee representatives in the bill. While we understand and appreciate the efficiency of smaller committees, because of the unique nature of the construction trades and because of the requirement of the trade boards to conduct broad outreach, we believe the size of the construction trade boards must be more than four members, but not to exceed 12, to be determined, based on need, by the construction divisional board. We also believe the governance structure would be more effective if there was a direct representative link between the construction divisional board and its trade boards. This would serve to ensure the full and complete flow of communications between the construction divisional board and its trade boards.

Now, on to a section dealing with the status of apprentices in the college. With regard to membership in the college of trades, the bill provides for three classes of membership: journeypersons, employers of journeypersons and apprentices, and other classes as prescribed by the college's board. We strongly recommend that the bill be amended to include a membership class specifically for apprentices.

From the moment they register, apprentices have an employment relationship with a construction employer.

They spend the vast majority of their apprenticeships learning their trades through experiential learning, working in the industry. Apprentices are part of the construction industry, and they must be part of the college and must subscribe to its standards.

We recommend that apprentices be required to become apprentice members of the college and pay a membership fee in an amount which the board determines appropriate for that class of member.

I want to thank you for the opportunity to appear and provide advice today. Should this bill be passed, we look forward to working constructively with the transition board and the board of governors in making its appointments, establishing regulations and developing important criteria and processes in the months ahead.

I would like to use the remainder of my time to take any questions from the committee.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Cunningham. We have three minutes left, so one minute per party. We'll start with the NDP.

Mr. Rosario Marchese: Thank you, Ian. I should tell you that everybody seems to be in agreement that apprentices should have membership on the board. I'm assuming the Liberals will make that amendment.

The other point you make about the appointments council and that they "shall be capable of, and shall act, in a neutral and impartial manner"—I get the impression you don't believe they will be neutral. That's my feeling. Is that correct?

Mr. Ian Cunningham: Well, I think very, very careful consideration must be given to these appointments. These are very, very important appointments that put in place those people who will populate all the various boards and committees and so forth. Very, very careful thought has to be given to the individuals.

Mr. Rosario Marchese: I understand.

Mr. Ian Cunningham: They must be, without question, unbiased, neutral—

Mr. Rosario Marchese: Ian, I should point out that unions are worried, too, because they think, on the other side, conversely, that there should be tradespeople on the appointments council. You both seem to have concerns about the neutrality of these members.

Mr. Ian Cunningham: As I said before, I think these appointments have to be given very careful thought.

Mr. Rosario Marchese: I agree.

Mr. Ian Cunningham: They may want to interview all kinds of people and examine them for neutrality and their ability to serve in the way that's outlined in the bill.

Mr. Rosario Marchese: Thank you, Ian.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on to the Liberal Party.

Mr. Kevin Daniel Flynn: In the short time we have, Ian, I just wanted to thank you for your support of the bill and for the suggestions you've made.

My exposure to both the employers and to the bargaining agents in our construction industry in Ontario is that, as we move forward with this process, I think a maturity level where there's no room for error, that you were

talking about, will come to the surface very quickly. I think this will be successful, especially with groups like COCA being actively involved.

Mr. Ian Cunningham: Well, it seems to me that a great deal of good thinking has been applied to the development of this bill. I don't think anybody would agree it's perfect, but perfection exists as a fleeting notion and it's different in the minds of everybody. Suffice it that a lot of thought has been put into the governance model as it's laid out in the bill. If people can get together, committed to producing the best apprentices that we possibly can and committing themselves to making this work, the proof is in the execution. As we go forward, if the bill is passed, it will only be successful if it's successful in its execution.

Mr. Kevin Daniel Flynn: Agreed.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the Conservative Party. Mr. Bailey.

Mr. Robert Bailey: Thank you for your deputation and presentation today. You've said a lot, and I agree with most of it. Do you think, on the one part there about the adjudicators and their background, that at the end of the day they necessarily have to have a judicial background to be fair, or not necessarily? Is that something you'd lean to or that you think we should consider when we're looking at this?

Mr. Ian Cunningham: It's something, I suppose, that could be considered. I don't think that only judges are capable of being neutral and unbiased. I think there are lots of other people who don't have partisan or other kinds of relationships that guide their life and I think those are the kinds of people that should populate this appointments council.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation.

ONTARIO ELECTRICAL LEAGUE

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our 3:15 deputation, the Ontario Electrical League. Good afternoon, and welcome.

Ms. Mary Ingram-Haigh: Good afternoon to you as well.

The Chair (Mr. Lorenzo Berardinetti): If you could just, for the record, state your name.

Ms. Mary Ingram-Haigh: Yes. Mary Ingram-Haigh, from the Ontario Electrical League.

Mr. Chair and members of the Standing Committee on Justice Policy, my name is Mary Ingram-Haigh. I've had the pleasure of being in the electrical industry for approximately 22 years, the last four years with this not-for-profit organization. Through my work with the organization I sit on many committees, be they the provincial advisory committees to the MTCU, the advisory committees to our electrical authority, safety authority, colleges etc., and I've had the opportunity to speak to many electricians, apprentices and contractors who often are tradespeople as well. On behalf of the input of the

members of our league, I am pleased to present our comments on Bill 183.

A little bit more about our league: We are not-for-profit, and we are inclusive and provincial. We have over 25 members from the electrical industry in Ontario; and those are just persons that signed up. We do represent far more than that. Our members do include electrical contractors, again, who are often tradespeople; electricians, apprentices, utilities, Hydro One, the generators, the Electrical Safety Authority, which is our regulatory body for safety, and their inspectors; the suppliers, manufacturers' reps, engineers, educators and service companies.

As well, our membership is inclusive in the sense that we're open shop. We have a lot of non-union shops but we also have a significant number of companies that are signatory to the two unions that do the electrical industry in Ontario, which are the International Brotherhood of Electrical Workers and the Christian Labour Association of Canada.

In my presentation today I will highlight our objections to the proposed college of trades and our recommendations for improvements, assuming the bill goes forward. The full details on our objections and recommendations can be found in our submission to the committee.

We have canvassed, as the Ontario Electrical League, our membership and have found, amongst the members who participate in these discussions, that there is little or no support for the proposed college of trades. The most frightening part, perhaps, is that there is a great lack of awareness. I have personally, as have many of my electricians, spoken to other folks in the industry and they don't even realize that the college of trades is coming in or what it's about.

In particular, I'd like to state the following objections. For the most part our trades in Ontario, and particularly those in construction, and particularly those that are mandatory, meaning that you must have your certificate of qualification in order to do that type of work, are well regulated through a series of existing bodies. We see no reason for another bureaucratic organization to regulate the trades, especially given that we already had so many great advisory cabinets giving great advice to the various ministries. In the case of the electrical trade, this group is certainly amongst the most heavily regulated, and rightly so. Electricity, although you can't see it, is very dangerous, but our group welcomes the high regulatory standards imposed on us by the Workplace Safety and Insurance Board; the Ministry of Labour; our own regulatory body, the Electrical Safety Authority; and the Ministry of Training, Colleges and Universities.

Number two, we feel that the proposed college of trades is potentially an undemocratic organization. As we understand it, the members of the board will be appointed, with no elected representation from the very tradespeople the college will regulate. As I understand it, there are approximately 470,000 C of Qs out there, and in some cases, people hold multiple tickets.

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Number three, we have not seen any proof that this proposed college of trades will actually create any jobs. As we understand it, when regulatory burdens are increased, this often actually stifles jobs and growth.

Lately there have been many pronouncements on creating jobs from the McGuinty government, including the Premier and the Minister of Finance repeating that the HST will actually eliminate paperwork and red tape to make businesses more efficient and create jobs. Just recently the Premier announced that the mandate of his recently appointed parliamentary assistant is to help Ontarians create jobs. We haven't seen anything coming out of Bill 183 that fits with what appears to be the number one priority for our government today.

While we do strongly oppose the creation of the college of trades, if the government of Ontario is intent on going forward with it, we offer the following recommendations:

The first, and we think the most important, is that the proposed college of trades should be put to a vote of the very tradespeople it will regulate. Find out first-hand if the tradespeople feel that additional regulation is required. If 50% plus one of Ontario's eligible tradespeople endorse the proposed college of trades in a fair and open vote, we would certainly not hesitate to endorse it.

Assuming there was such a vote and the tradespeople said, "Yes, we want the college of trades, this is what we recommend," the members of the proposed college's board should be elected from among Ontario's tradespeople, as opposed to appointed by the government. This will give the proposed college of trades much more legitimacy among the tradespeople, just as the members of this committee have legitimacy by virtue of their election by the people of Ontario to the Legislative Assembly of Ontario.

Any fees to be levied by the proposed college of trades should be approved by a majority vote of the members of the college. In electrical, as I understand, for certain tickets they pay \$60 for a three-year renewal. The number I heard in the proposal was \$100 per ticket, understanding that some people hold multiple tickets. As we understand it, that would be a minimum of \$47 million per year coming in to the government from our tradespeople's pockets. I understand they are planning to charge the businesses that actually hire the tradespeople as well, and we haven't seen anything on the budget or how all that would work out.

We believe the government should consider taking a look at some of our existing regulatory agencies. Again, in electrical, that would be the Electrical Safety Authority, which already governs the code and does the inspections. Safety is the number one priority. We sit on various committees with them, along with the Electrical Contractors Association of Ontario, to ensure that safety is top of mind. The point of the ESA is to have them potentially take over the apprenticeship and training governance functions as well. I believe there is already talk of them taking over the certificate of qualification.

We feel the government should conduct an independent economic analysis of the potential impact of the creation of the proposed college of trades and share the results with all the tradespeople. We feel that Bill 183 is the wrong bill at the wrong time. At a time when the government of Ontario should be concentrating solely on creating new jobs and opportunities for Ontarians, the proposed college of trades does not seem to propose anything that will help our tradespeople across the province. One fear that exists because of the ratios today, as well, is that some of these tradespeople may move on and leave our province, leaving us in a worse state.

The Ontario Electrical League has been consistent and clear in its objections to Bill 183 and the proposed college of trades since the beginning of the process. In spite of the fact that we have worked with the government process and have contributed to the debate, it appears there haven't been any answers or results of our input. One of our fears is that groups with a strong commercial interest may use the power of government to not ensure that the whole thing is fair and reflective of Ontario—meaning the tradespeople in Ontario with whom they work, whom they are signatory to or not—and that it be fair and equal.

If Bill 183 is passed without a proper vote of the tradespeople themselves, we're afraid as well of how the different tradespeople in Ontario would feel about that and whether or not they might buy in to the process. In 2007, we came up with the provincial electrical contractor licence. One of the reasons for that was to ensure that people are staying above ground, not under. The ESA's database went from approximately 4,500 contractors to approximately 7,800 contractors. So it helped bring things out of the woodwork. Our fear, especially perhaps in the non-compulsory trades, is that if people aren't allowed to buy in to the process and be part of it, we may find more underground work as a result.

On behalf of the members of the Ontario Electrical League, I urge you to reject the bill as written. I thank you for your time and consideration, and will try to answer any questions you may have.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have just over six minutes for questions. We'll start with the Liberal Party. Mr. Flynn?

Mr. Kevin Daniel Flynn: Thank you, Mary, for your presentation. I've got a 54-year-old brain now, but I think you're the first person, or perhaps the second, who has come forward and said outright, "We don't want you to pass this bill." That kind of surprises me, in a sense, as the reason for the genesis of this bill, I think, had a lot to do with some of the input that was coming from your organization in the first place with regard to concerns that were being expressed over the ratios.

No government in the past really had the ability to deal with those concerns in any sort of concerted way, because a process didn't exist to deal with the questions that were being asked and the opinions that were being offered by both sides. So I guess I'm a little surprised that there's now a process that's going to be put in place

for the first time in this province's history to deal with an issue that I know you're concerned with, and yet you seem to be opposed to it. Maybe you could answer that first.

Ms. Mary Ingram-Haigh: Absolutely, Mr. Flynn. I think we feel there is a process that exists. There are groups called provincial advisory committees, which the staff of MTCU has been great in supporting. To be perfectly blunt, since I have been on that committee, I have spoken with people who have been for years, and the group right now is in theory balanced by the number of employers and employees. However, given our understanding of open shop versus closed shop—open shop means non-union or a union that will work side by side with other unions or with non-union persons, whereas a closed shop is almost like a marriage between the contractor and the employees such that they can't work with other people—the provincial advisory committee was the place for those votes to take place. Unfortunately, the advisory committee does not seem to be reflective of the tradespeople in Ontario, in that 50% seem to come from the closed-shop, unionized sector and 50% from the open shop. There was a process, in that we've come up with approximately five to seven recommendations—consensus, unanimous among all parties—and unfortunately none of them were moved on by the current government.

The ratios themselves: That is the place, and the votes were taken, but perhaps because of what we feel to be the incorrect reflection of Ontario on the committee, the votes always kind of broke even.

Mr. Kevin Daniel Flynn: Okay. I think we all agree that whatever comes out of this, it's got to be efficient and it's got to be a good thing for the economy. As part of the transition, it was the intent of this bill, as I read it, that any duplication as far as enforcement is concerned between groups like the ESA, the MOL or the TSSA would be examined to make sure we're not doing the same thing, either in duplicate or in triplicate. Groups like the Ontario Chamber of Commerce were before us today saying that they felt this was a good thing for the economy: It was going to help address the skills shortage; it would maybe attract young people to the skilled trades again. So I guess I'm a little surprised. Maybe I shouldn't be, but I am.

Ms. Mary Ingram-Haigh: Well, we have put the comments in since the beginning.

Mr. Kevin Daniel Flynn: Did I use up my time?

The Chair (Mr. Lorenzo Berardinetti): I am on the clock, and I want to be fair to everybody here. Your point is well taken, and I do apologize, because there are questions from Mr. Bailey.

Mr. Robert Bailey: Thank you, Mr. Chair. Thank you, Mary, for your presentation today. You already touched, on the ratios, about the cost to the members. One of our other deputants, who appeared just before you, raised the issue about the adjudicators—I won't go over the other issues. Did you have any issues? If this bill goes through more or less as written, or even with some

changes, would your organization have some concern about the qualifications and neutrality of the adjudicators?

Ms. Mary Ingram-Haigh: I would say yes, and I believe someone asked earlier whether they should have a judicial background. I'll be blunt: I have not discussed this particular piece with my members, so speaking on my own, what I would say is that I think it's really important that they understand the trades. I think that getting people who actually have trades experience, who have been out in the real world and done this work—but I do think they should perhaps have access to support of that nature.

Mr. Robert Bailey: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Mr. Marchese?

Mr. Rosario Marchese: Mary, you did answer one of my questions, but I wanted to ask you again: You didn't consult with your own members?

Ms. Mary Ingram-Haigh: On that particular question, not in detail.

Mr. Rosario Marchese: But have you consulted your members on these issues?

Ms. Mary Ingram-Haigh: Yes, in our government relations committee.

Mr. Rosario Marchese: Do they all agree with you?

Ms. Mary Ingram-Haigh: I think you know that in communications, you can only find out their answer if they respond. So those I have spoken to, and we've gotten some proactively, are not interested in the bill as it stands today.

Mr. Rosario Marchese: Would that be a few, many, 100, 200, 1,000?

Ms. Mary Ingram-Haigh: I would say we've been talking about it for about a year in various committees. I would say easily hundreds of individuals, who in turn, through our chapter organization, would speak to others. But my biggest concern really was the lack of awareness that this was even coming.

Mr. Rosario Marchese: That's probably true too. That was a question I wanted answered and I think you've answered fairly well.

You talked about the provincial advisory committee. One of the complaints from the union groups is that even though it's been in existence for such a long time, the government doesn't listen to them.

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Ms. Mary Ingram-Haigh: I would have to say that that's the feedback I receive from the members as well, but the process is there to be listened to and to be addressed. It's just a lack of action, it appears, and I'm not certain why.

Mr. Rosario Marchese: What's the point of having it if the government doesn't listen?

Ms. Mary Ingram-Haigh: I've heard that comment from the members as well, but I do believe that committee could work within the structure if there were more actions taken.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation. It was very thorough.

ONTARIO SECONDARY SCHOOL
TEACHERS' FEDERATION

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our 3:30 presentation from the Ontario Secondary School Teachers' Federation. Good afternoon and welcome.

Mr. Ken Coran: Thank you.

The Chair (Mr. Lorenzo Berardinetti): If you could just identify yourselves for the record, for the sake of Hansard, and then you have 15 minutes to speak. If you speak and there's time left during that 15 minutes, then we'll ask questions from the committee.

Mr. Ken Coran: Thank you. Ken Coran, and I am the president of the Ontario Secondary School Teachers' Federation. With me is Craig Brockwell, from our communications political action department. He's also our legislative researcher.

I wanted to start out with the first question people might ask: Why is there a presentation from the Ontario Secondary School Teachers' Federation? To introduce ourselves, we do represent 60,000 members across the province who are not only teachers but also educational support workers. In fact, the paper that is presented today will have some concerns from the teaching division of that grouping as well as from some of the support staff members. Craig Brockwell is a certified tradesperson as well as a certified teacher, so the majority of the presentation will be done by Craig, because he can speak first-hand with regard to what some of the concerns are.

The issue I wanted to point out to you may seem trivial, and I believe it likely has been raised by other presentations. It's just the name. We do have the Ontario College of Teachers. In fact, there is a lot of debate right now and discussion over the professional designation that has now been utilized for teachers, which is also OCT. If you are going to embark on another college and use the designation, OCT, as well-meaning as it is, I think what will happen down the road is that it likely will cause some confusion and probably some communications going to different people that it perhaps was initially intended to. I wanted to highlight that simple thing that sometimes gets overlooked in a lot of areas. I know the OFL has recommended another name, so I would strongly advise taking a look at that other name as well.

For the remainder, Craig will walk you through our paper. He likely will also answer the majority of the questions.

Mr. Craig Brockwell: Thanks, Ken. What I want to touch on is probably two areas: duplication and jurisdiction. If you go to the section on duplication, I'll start off with that.

The creation of the college obviously will cause duplication, because beyond the teaching ranks we also represent educational assistants, child and youth workers and a variety of other professions that are basically

represented by other colleges. Teachers themselves who are tech teachers are represented, once this is formed—or if this is formed—by perhaps the college of trades and the College of Teachers. We're seeing duplication of a variety of activities, policies and legislations that are going to impact on our members, which obviously, from our perspective at the provincial office, will cause some concern by our members and a fair number of calls trying to decide, "At what time do I use this piece of legislation and at what time do I use that piece of legislation?"

The issue about expenses: Many of our members already send fees on to professional colleges. With the formation of the college of trades, they perhaps have to add another fee on top of two or three fees that are already paid out. This challenge could be addressed by provisions as far as exemptions go, but my expectation is that those exemptions would cause greater complications once initiated. We could have voluntary membership in one or the other. Obviously, if you're a teacher, you have to belong to the College of Teachers through existing legislation. We have those challenges before us.

The issue of jurisdiction, when it comes to a person practising: Will school boards require that tech teachers have to belong to the college of trades, the College of Teachers and perhaps others if they are teaching in their trade? That causes tremendous difficulty, because there might be conflicts between the mandates and policies of those particular colleges, and at what time does one supersede the other?

This bill provides, from our perspective, a number of questions that we think have to be clarified before it moves forward, and I think they have to be clarified with the involvement of the people who are either in the trades and understand these issues or through consultation with various groups. We would agree wholeheartedly with many of the issues that the Ontario Federation of Labour perhaps put forward in their presentation, if they've made one already, or if they're due to make one.

What we have is members who may wish to belong to both of them at the same time because of their non-school activities. We have a large number of members who, let's say, are carpenters—I'm a carpenter by trade. During a school year, they're teaching. During the summertime or during weekend hours, they may be practising in the building trades of some sort. Will one activity impact on the other? That's another question that I think we have when we're dealing with these types of issues.

So both issues: duplication and the expense involved in that duplication; and jurisdictional questions as to when one particular college supersedes another. Are they concurrent? What are those issues? I think those are probably our biggest concerns.

I want to highlight another section that I think is important in moving forward as well through the implementation of this legislation. If you look under educational assistant apprenticeship training—the complexion of a variety of director boards and what have you within the college of trades—educational assistants are one of

the recognized trades that are going to come under this particular college. There are training proposals; there's an apprenticeship program for educational assistants. However, that program is not recognized by many school boards. So which type of training do you advocate? Do you advocate the two-year college program, or do you advocate this apprenticeship program? That's a challenge that, again, some of our members have had to meet. In some cases, school boards have offered upgrading programs to allow these things to go on, but that's another problem.

I'll end there and leave time for some questions that people may have.

The Chair (Mr. Lorenzo Berardinetti): We have just over seven minutes left. We will start with the Conservative Party. Mr. Bailey?

Mr. Robert Bailey: Do you feel that you were consulted? You've raised a lot of good issues now. Did you have an opportunity, when the bill was being drafted, to have input at that time, or was it just on reflection, after the bill was drafted, that you had a chance to look at it? You've raised a lot of different issues—everyone has, who has come here—and this is different, again. Do you feel you had an opportunity to present at the time?

Mr. Craig Brockwell: We're affiliated with the Ontario Federation of Labour, so any input we've had leading up to this has been through them. On this particular piece of legislation, we didn't have any contact with training, colleges and universities on this particular issue.

Mr. Robert Bailey: Okay.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the NDP. Mr. Marchese.

Mr. Rosario Marchese: Thank you both. First of all, I want to agree with you with respect to the name change. The government members haven't spoken to this, and I assume they haven't spoken to the minister about it yet. I think the name should be changed. I think there is a great deal of confusion. I think that in the general public's view, when you talk about the college of trades, it sounds as if we're creating another college that's going to be dealing with trades. The confusion is evident. My view, like yours, is that they're going to have to do that.

On the whole notion of duplication and other areas of concern—jurisdiction, regulation—you're not the first who has raised this, and many of the members you represent are represented by different governing bodies. I think what I heard from Mr. Flynn is that they will be dealing with these jurisdictional problems, but I'm not quite clear how that's going to work, if it's going to work or what laws will supersede what or which. Will this bill supersede any other laws that are in place, or will the existing laws by which you're governed supersede this? All that is unclear.

I think you raised good questions about having clarity before you can say, "Okay, we agree, or disagree, with this." Unfortunately, we don't have those answers. I'm glad you raised the questions, and hopefully some answers will come.

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The Chair (Mr. Lorenzo Berardinetti): We'll move on to Mr. Flynn.

Mr. Kevin Daniel Flynn: I've got a brief point to make, and then I'm going to turn it over to my colleague.

You raised a good point on the tech teachers. I think they need exemptions. That's the sort of information we were hoping to hear at these hearings. Obviously, any exemptions will be dealt with through the regulations, and you've certainly highlighted that one.

Is it fair to say, though, that you agree with the concept of the college? You have some problems with the name and some other things you would like to see addressed, but overall do you agree with the concept?

Mr. Craig Brockwell: I think, initially, we agree with trying to promote the trades. From a very personal perspective, I hold both a university degree and a trade. When my older boy was going into post-secondary, I naturally thought, "Okay, the good avenue for him is to go on to university." I was wrong, because every bit as valid, and perhaps in many cases for many of the students we're dealing with on a daily basis, the trades are a far better route to go. Those people will be successful. My son went into the trades.

So we agree with the idea that you want to promote trades as every bit as good an avenue as post-secondary education.

Mr. Kevin Daniel Flynn: I think another teacher wants to talk to you too.

The Chair (Mr. Lorenzo Berardinetti): Mr. Levac, go ahead.

Mr. Dave Levac: Thanks for the presentation, Craig. I appreciate it. There will be some repeals of other pieces of legislation that might help reduce the temperature that seems to be rising. Once that happens, I believe that some of that issue will be addressed.

Earlier we heard from Denis Hubert, the president of Collège Boréal. He talked about an overlying problem of communication between the collection of data and the information that's necessary. He mentioned secondary schools, the colleges system and the trades themselves. Are you in concurrence with sharing that data and the capacity for us to bring out the information that's necessary, not just for francophone students but for everybody who needs that kind of information shared, so that you can follow and track the students in your charge and those who are involved in the trades and apprenticeships, in order to give us a clearer picture of what exactly is happening?

Mr. Craig Brockwell: We're just one partner in that information, obviously.

Mr. Dave Levac: Precisely, but your information is different than that collected by the other agency, and they're not allowed to share.

Mr. Craig Brockwell: I don't think we have a major difficulty. Ken?

Mr. Ken Coran: Well, it has to be an equal sharing of information, and for what reason is this data being gathered? If it's being gathered to help student success,

so be it. If it's being gathered for performance appraisals, we obviously have an issue with something of that nature.

I think the intent of the data would have to be very clearly identified before we could positively say yes or no to any scenario dealing with it.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation and for your time here today.

CANADIAN BUILDING TRADES— BUILDING AND CONSTRUCTION TRADES DEPARTMENT

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the next deputation, which is the Canadian Building Trades—Building and Construction Trades Department. Welcome. You have 15 minutes. If any time is left, the committee will ask questions. Would you kindly identify yourself?

Mr. Robert Blakely: My name is Bob Blakely. I am the director of Canadian affairs for the building trades. In the short time I have, I will try to speak to a number of points that have been made here. You've heard a number of these points, so you probably don't need me giving you some great, lofty background on some of these issues.

We, the Canadian building trades, the 450,000 men and women who make their living in the construction industry, view apprenticeship as a vital Canadian resource. Our business is transitory; it works from province to province. Welders in Ontario are employed in Quebec, Newfoundland and Alberta, people from the east coast come here on a regular basis. What happens in the largest apprenticeship system in the country has an impact on the other provinces.

We are here to say what's being done in Ontario needs to fit. It is demonstrating leadership, and we support the undertakings that have been done. We would say respectfully that what has gone on here is based on logic and analysis, not ideology. If you look at the work of Mr. Armstrong and the work of Mr. Whitaker, there has been broad and substantial consultation which has tried to make this work.

In other provinces there have been tweaks of the apprenticeship system. What is going on here in Ontario is the chance of a lifetime. It is a chance to look at trades and the business of trades, and I would ask with respect that this be something that we don't squander.

I come from the construction trades. That's 60% of apprenticeships across Canada, the lion's share of apprenticeships. Our business is transitory. It is essential that construction employers who employ tradespeople have people who have broad-based threshold skills to enable a mobile workforce. We can't afford to have one-trick ponies. What an employer may not need today will be needed by another employer tomorrow.

I listened to the person from the Ontario Electrical League, with all of its 25 members, and thought to myself, with 1,000 electrical employers in Ontario who

are with the IBEW, there must be 100 that have their offices within a couple of square miles of this building. There are a lot of people who support what's going on here.

One of the things the college is going to do is professionalize the trades. If you look at the numbers that have been gleaned demographically for the trades on a go-forward basis, we need to replace a significant portion of the tradespeople in this country in the next seven to 10 years as the baby boomers leave. There needs to be something to attract people to the trades. It is image; it is an understanding that these are good jobs, good careers, with good pay. Part of the value of those good careers is the value in the certificate, the certificate which gives you a right to practise, in some cases an exclusive right to practise. If you ask anyone who has got a law degree and has been through the process with the Law Society of Upper Canada, the value in having your right to practise is to be heard at the bar. For a doctor, it is admitting privileges in a hospital. Each of those learned professions has a method whereby they regulate internally. If I hung out the shingle and said, "I'm a doctor," the police aren't going to come and get me tomorrow; it's going to be the doctors' association. That is one of the things that this college should and ought to do. The law is not a stranger to quasi-judicial tribunals.

I have three trade certificates and I'm a lawyer. I've been in the trades business longer than the lawyer business. I heard some questions from members of your panel which said, "Should we have lawyers doing this?" I know a lot of lawyers and I know a lot of tradespeople. Some are inherently fair in everything they do; some aren't. Can't we have a process where we vet people and come up with chairs? We do it for the Labour Relations Board and for a host of other tribunals.

Governance: The people who are impacted materially by this legislation ought to have a seat at the table. I noted from the media that Colleges Ontario was here saying, "Look, we train people. We need to have a seat at the table." It should be employers who employ workers and employees.

I know people have stressed to you that you should eat the elephant in a number of bites. If you are going to be successful in the transition, start some of the work with the compulsory trades and work through to the voluntary trades.

On the issue of ratios, one size will not fit all. There is a difference between the risk there is to a beautician and the risk there is to a first-year apprentice ironworker who's working with 300 feet of freefall. You need experts to tell you where to do this.

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The public registry, which is in the material, the protection of the public and being able to determine if people have or do not have threshold competency is something that we view as substantially important. The provisional certificates, which have been talked about here, transfer that function to the college and take it away from MTCU. Is there a conflict between some of the

various bodies? If I am a teacher in a high school that does technical training, do I have a conflict? There are hundreds of people who have more than one skill, and somehow we manage to figure it all out.

Improvements to the appointment process: There needs to be input from the stakeholders and a vetting before you do anything.

Apprentices are not to be members of the college, as I read the material. In the law society, students of law are members of the college, essentially. In the medical society, interns are members of the college. It makes sense to have everyone in one place and it makes it too complicated to leave some people with MTCU. If there's going to be a transition, and there will have to be, form ought to follow function and money ought to follow a change in responsibility.

Part of our presentation asks, what's in a name? "College" was originally a Latin term. Colleges used to exist at the crossroads in Rome, and the various colleges kept the crossroads clean and had a number of functions that were important to the public. "College" is a term of some substance. I don't know if some people say, "Don't call the trades a college because we're just too dumb to do that." I would suggest to you that the college of physicians and surgeons, the college of trades and the college of teachers are something that most everyone can understand.

When you look at the business, what the college will do is deal with a number of people who have important societal functions. They will be professional people. Don't give the college of trades some namby-pamby nondescript name to make a couple of people who feel more important happy.

This is not about anything other than professionalizing and recognizing the men and women who make their living in the trades as capable, vital, strategically important occupations that our society needs.

Those are my submissions and I'll answer any questions that you might have.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for those submissions. We will begin with the NDP and Mr. Marchese. There are about two minutes per party.

Mr. Rosario Marchese: Robert, a question around the issue of enforcement: Both the OFL and the Coalition of Compulsory Trades in construction speak about the enforcement mechanisms that are in place as being inadequate. They think there should be better enforcement in the bill. Did you have any comment on that?

Mr. Robert Blakely: I agree with that completely. I'm sorry; I thought I'd made the point that I thought the enforcement was key. I think enforcement is key.

You know, in the province of Ontario, I can't take my goldfish to somebody to have it looked after, but there are people who would say, for the people who look after the steam or electricity in the kids' school, "Oh, anybody can fix that." Well, that's rubbish.

Mr. Rosario Marchese: I've got another question. The Trades Qualification and Apprenticeship Act clearly

establishes that an apprenticeship program must be a minimum of two years. Bill 183 makes no such provision, the OFL says. As Bill 183 is presently written, any program can be classified as an apprenticeship program, regardless of whether such a program takes six weeks or six years to complete and regardless of whether the program is primarily in-class or on the job. Any comment on that?

Mr. Robert Blakely: My firm belief is that people who are reasonably expert in the trade or the occupation need to address their minds to what is required for there to be a trade. Some trades are five years, some trades are three years, some trades are four years. That is something that I think needs to be worked through for each trade specifically. I would not specifically have words of limitation in the legislation, but I would hope that the legislation would provide for a full and complete trade rather than a fragmented section of, you know, door lock installers, door hinge installers, door shim installers.

Mr. Rosario Marchese: Thank you. Do we have time for a quick question?

The Chair (Mr. Lorenzo Berardinetti): All right, as long as we finish by 4.

Mr. Rosario Marchese: You're talking about a phase-in and you're suggesting you start with the—

Mr. Robert Blakely: Compulsory trades. There's a mechanism there.

Mr. Rosario Marchese: How long do you think that might take in terms of this phase-in? Is it one year, two, three, four, five? Do we know?

Mr. Robert Blakely: I'm guessing, so I would say that perhaps Mr. Dillon would be a much better person to ask than I; he's been a lot closer to it. But because there is an established infrastructure, I would think that 18 months might do it.

Mr. Rosario Marchese: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you, Mr. Blakely. That was an excellent presentation.

My understanding is that the provisional certificates will go to the college, along with some of the responsibilities for the transition, obviously, to deal with some of the issues that are confronting the industry at present.

If I could summarize what you've said, it would be that there is something really good here, we should seize the moment, we should strongly consider a phase-in, and we need to include apprentices. If we were to do those things, next to other jurisdictions in North America, where would you place us?

Mr. Robert Blakely: I would think that you would have a leadership role. I'm from Alberta, so I'll tell you that I think the Alberta apprenticeship system is marvellous. We actually have an apprenticeship board. Somebody got rid of the one here before my time.

Mr. Kevin Daniel Flynn: That's good news. My colleague has a question too.

The Chair (Mr. Lorenzo Berardinetti): Mr. Moridi, go ahead, please.

Mr. Reza Moridi: Thank you, Mr. Blakely, for a wonderful presentation.

In the proposed legislation, the structure of the board of governors is set out such that there are members from the various industries—employer, employee and government appointees. Some people think that there should be representation from the training providers; for example, the colleges and other training providers. They argue that in similar colleges, in the Royal College of Dental Surgeons of Ontario, for instance, the board of governors or the council of the college has representation from dentistry schools, and I believe the case is the same with the college of physicians. So would you think we should have a similar structure in the college of trades?

Mr. Robert Blakely: With respect, my answer to that is no. I think that if you look at the actual role of the colleges, colleges are essentially contract training providers. I believe there is a conflict in roles and a conflict in definition. I know at least in the medical and dental professions, part of the reason people are there is because those are very closely quota-ed disciplines and they're trying to make sure they maximize the number of people in the throughput. It is not like the history department or, respectfully, the plumbers in Ontario.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We're going to have to move on to the Conservative Party and Mrs. Elliott.

Mrs. Christine Elliott: Thank you very much, Mr. Blakely, for your presentation. I too am a lawyer by training, so I entirely agree with your comparison with the law society. I think it's a very good analogy.

My question relates to the issue of phase-ins, and you gave as an example the issue of dealing with ratios. Would you consider that to be a top priority to be dealt with as soon as possible, or where would you place that in the rank of order?

Mr. Robert Blakely: I think it's an important priority. I think the issue of compulsory trades and how you are going to get through that and ratios are really important. The ratio determines the number of people who will be available to take an apprenticeship and the number of people who can effectively be trained. So I think it's an important issue.

Mrs. Christine Elliott: Thank you.

The Chair (Mr. Lorenzo Berardinetti): That completes the time. Mr. Blakely, thank you for your very thorough presentation.

Mr. Robert Blakely: Thank you.

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COALITION OF COMPULSORY TRADES IN CONSTRUCTION

The Chair (Mr. Lorenzo Berardinetti): We will move on now to our 4 o'clock presentation, the IBEW Construction Council of Ontario. Good afternoon and welcome to the committee. If you could kindly identify yourselves for the purposes of Hansard, which is our record-keeping system here.

Mr. John Pender: Thank you and good afternoon. I'm John Pender. I'm the executive secretary-treasurer of the International Brotherhood of Electrical Workers Construction Council of Ontario. With me is Mr. Eryl Roberts, executive vice-president of the Electrical Contractors Association of Ontario, and on my left is Mr. Ron Lebi, who's counsel for the Coalition of Compulsory Trades in Construction. We want to thank the committee for allowing us to comment on Bill 183.

We're here today representing the Coalition of Compulsory Trades in Construction. The coalition consists of the following organizations: the Electrical Contractors Association of Ontario; the Mechanical Contractors Association of Ontario; the Ontario Refrigeration and Air Conditioning Contractors Association; the Ontario sheet metal contractors association; the International Brotherhood of Electrical Workers Construction Council of Ontario; the Ontario Pipe Trades Council; and the Ontario Sheet Metal Workers' and Roofers' Conference.

The members of the coalition represent approximately 2,500 employers and over 40,000 journeypersons and apprentices in Ontario's construction industry. The trades represented by the coalition count for almost two thirds of the apprentices in the construction industry.

You've been handled a detailed version of our brief that details how Bill 183 can be improved. I would like to give you a summary of these recommendations.

The first issue that Bill 183 must address, from our perspective, is the issue of enforcement. Enforcement is the foundation that protects the integrity of the compulsory trades and is critical for consumer protection, quality workmanship, and worker health and safety. It is our view that it separates compulsory trades from the voluntary trades as certificates of qualification or registration as an apprentice are required to practise a trade. Currently, the enforcement regime relies exclusively on the Ministry of Labour's occupational health inspectors to inspect requirements for certificates of qualification under the Trades Qualification and Apprenticeship Act.

Prior to the MOL being involved, I cannot recall a single instance where the Ministry of Training, Colleges and Universities gained a conviction for violation of the TQAA. In any event, the current approach has been ineffective. The Provincial Auditor, the provincial Ombudsman and others have confirmed this. The sole exception has been in eastern Ontario, where the jobs protection office has undertaken a more active approach in enforcement. We strongly believe that success of the college will rely on its ability to ensure the integrity of the compulsory trades through a rigorous and consistent enforcement regime.

Secondly, and very importantly, all apprentices must be members of the college from the start. During the briefing by MTCU staff last week, Mr. Rosario Marchese detailed the concerns that were raised by the Provincial Auditor in relation to apprenticeship registrations and completion rates. The completion rate for many apprentices and certain organizations working out there is atrocious in this province. This is something that you all

have to be concerned about when we are talking about this new ministry of colleges. The Ministry of Training, Colleges and Universities, no matter what political party is in power—and I repeat that, no matter what political party should be in power—the record in the past has been dismal in the administration of the apprenticeship system. They have essentially abdicated their duties with a laissez-faire attitude and have undermined the integrity of the apprenticeship system. It's time for proper oversight of this vital program, and perhaps this proposed college of trades, if it does take some recommendations very seriously, would have that potential. Proper oversight of the apprenticeship system will ensure increasing completion rates, and will ensure the apprentices are not being used as a cheap source of labour.

You know, they are our future. We see that. Everybody in this room knows that apprenticeship leads to the future workers of tomorrow. We have to give them all the help we can, all the tools we can, so they can function properly at their jobs, at work and at school. We also have concerns that if one of the objectives of the college of trades is to raise that level of professionalism of the skilled trades, then it is wrong to do so without including the breeding mechanism for the future tradespeople. You can't have one without the other. It is my understanding that this statement was raised by many other presenters earlier today and last week.

Thirdly, we feel that phasing in of this college, starting with the compulsory trades, is critically important for the long-term success of this college and for the integrity of the compulsory trades. We wish to stress that the coalition is not proposing the college of trades be a club that is restricted to compulsory and restricted trades. We share the government's commitment to an all-trades college and to improving the government, administration and public image of the trades that the college could achieve. A phased-in approach to membership in the college will ensure that the objects of the bill are achieved and the college has industry support from its inception.

These are the three key areas where Bill 183 must be amended to ensure the college of trades is successful in raising the status of skilled trades in Ontario: once again, obligation and power to enforce compulsory certifications; all apprentices must be members of the college; and a phased-in approach starting with compulsory trades.

Thank you very much. Those are my opening remarks. We'll take any questions for Mr. Roberts, Mr. Lebi or myself.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have—

Mr. Eryl Roberts: John, maybe management wants to say just a few words.

Mr. John Pender: Of course.

Mr. Eryl Roberts: John's making the presentation today, and the reason for that is that I have no problem with it. Safety and apprenticeship training are two of the issues in our industry where we check our constituency

hats at the door. All we're here to talk about is what's good for the apprenticeship system and, as a result, what's good for the contracting industry.

The other point I want to make—and I think I made this in front of the hearings at OTAB and again in Bill 55, and I might as well do it here with the college of trades so I'm consistent. You've got to realize that from the employer's perspective, apprenticeship is, first off, a job and secondly a training program. So whenever you look at the legislation clause by clause, think to yourself, how is this affecting or helping the employment relationship that underpins apprenticeship? That was said earlier; I think I heard Bob Blakely saying something similar. When it comes to staffing the college, divisions and so on, think about that: the employer and the employee. Those are the primary people that this system is supposed to serve.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have just under seven minutes for questions. This time we'll start the rotation with the Liberal Party—about two and a half minutes.

Mr. Kevin Daniel Flynn: I have a question and then my colleague Mr. Leal has one as well, I think. I'm trying to understand the process that you'd employ if you did go to a phase-in, if we agreed that the phase-in would be the right way to do this. If one of the issues you are going to deal with in the very short term would be a compulsory certification review and you needed buy-in from the industry or from the sector, how could you do that if you only phased in the compulsory trades? How would you involve the voluntary trades if they weren't included in the phase-in and yet they'd be included in the issue for sure? How would you accomplish that?

Mr. John Pender: I think the question you're asking is—I think that's what the model is. If we go and put the compulsory trades first into this college, in the phase-in, the mechanisms are in place in this province—the schooling, the curriculum. It's there; it exists. So, to me, it's a model. For instance, the IBEW electricians in this province—all the electricians and apprentices—go to school, and there's a model and there are courses they have to take. They have to go to school three times in the process, so it's laid out, it's set out. We don't have to reinvent that model. We don't have to reinvent the model for the plumbers. We don't have to do that for the sheet metal workers. So you've got a model you can base it on that works fairly successfully in training. So to me, that answers that question. Let's try it and see how it fits in there, in the house of construction, because I look at the house of construction as a faculty, and in every faculty you have different departments. The department of compulsory trades would have a head and all the other sections and things, where people can bring their issues forward—

Mr. Kevin Daniel Flynn: I'm not sure I'm understanding, then, so it's probably me, not you. How would you involve the voluntary trades? Because presumably some voluntary trades may become compulsory trades. How would you include them in the process if they aren't included in the phase-in?

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Mr. John Pender: What I'm thinking is, a lot of trades would like to become compulsory; however, there are quite a few that don't want to become compulsory. So the mechanism, if I'm talking about a mechanism, is in place for them to bring their issues forward to a panel. The panel would then take a look at a non-compulsory trade and decide whether or not they could have the status to become compulsory. And then, if they do, they'd move into the department of compulsory trades.

I don't know if I'm more confused than you are, but that's the way I see it.

The Chair (Mr. Lorenzo Berardinetti): We'll go to the other two parties. If there is time left, then we'll come back here again. Any questions from the Conservative—

Mr. Robert Bailey: Thank you, Chair.

Thank you for your presentation this afternoon and the very extensive deputation.

A number of other people—from the trade side; not management so much—mentioned the cost to their members. A number of them, in the electricians, I'm sure, and the pipefitters and all the other trades, already pay a mandatory licensing fee. Apparently, in this legislation, the way it is written—that might be changed during committee or whatever—there is a further fee that would be charged. Where is your membership on that? Someone explained it—one of the members came in and said it's like you're paying to have someone, for want of another word, accost you, because they're there as a licensing body and a policing body.

Mr. John Pender: You know something? If we had enforcement in the industry, you're going to talk to—my members in this province have said to me, "John, if you can get enforcement, if they will look after the regulations of this licence, we will pay for it and we would be glad to pay for it."

Right now we pay for nothing. There hasn't been a ticket written in this province south of Ottawa in years for people working in this industry and not being properly licensed and policed. We would pay to have that done, absolutely.

Mr. Eryl Roberts: I back John on that. Enforcement is the value added to compulsory certification, and it's worth something.

Mr. Robert Bailey: Okay. Thank you.

The Chair (Mr. Lorenzo Berardinetti): We'll move on then to Mr. Marchese.

Mr. Rosario Marchese: Thank you for your submission. I wanted to ask you a question that hasn't been talked about too much, except your organization has made mention of this. The government retains the power to maintain a registry of apprentices, but you and all the other affiliates make a good case as to why the maintenance of the registry of apprentices should fall under the college of trades. Do you want to review that again? I don't think people have seen that, and you might want to comment on why it is that the government feels they need to control that and not pass it over to the college.

Mr. John Pender: I don't think the government is much in control of this registry, what's going on right now. I don't think they know the number of apprentices in their system, I don't know if they know the number of graduations they have, I don't know if they know the number of registrants who haven't reported, don't go to school. It is a mess.

If we leave this with the Ministry of Training, Colleges and Universities and the government, and don't go over to the college, it will stay the same; nothing will change. That's why we're very adamant about the apprentices coming in. They must come into this house there must be some registration, enrolment and graduation. It's fundamental here.

To keep them over here in the mess they're in already will serve no purpose, and we can't support the bill if that happens. It just goes nowhere.

Mr. Rosario Marchese: One of the comments that you made that I articulated in the Legislature, having read the auditor's report, is that the ministry seems to be obsessed with numbers, registrants, as opposed to completion rates. They do talk about a number of things they could or should be doing, but have done very little in this regard.

Your point is that we could deal with the issue of completion rates by taking over the registry of apprentices and making sure that the college of trades has control of those numbers as a way to deal with that particular problem. Otherwise, you're saying this might linger as a problem.

Mr. John Pender: It will stay there, it won't go away, and it's the biggest problem we have now. You know, when you get large numbers of people who are partly trained and they're out there working in the industry, because they know enough to do something, all we're doing sometimes in this instance is feeding the underground economy and providing a source of semi-skilled cheap labour. It doesn't serve the purpose of the industry, consumers; it doesn't serve the purpose of this young man or woman who is out there working like that.

The Chair (Mr. Lorenzo Berardinetti): Now, did someone have a quick question here?

Mr. Jeff Leal: Very quick question. Ratios have developed a lot of discussion in Ontario the last number of years. Section 60 in particular identifies that one of the first tasks of the new college is to develop these ratios and that it be reviewed on a four-year basis. What's your view on that provision?

Mr. Eryl Roberts: Looking back at the ratio debate over the last year and a half, I've been in this industry for 30 years, and I think it was a great disservice to politicize that issue. Ratios are there for a purpose: educational, safety, manpower planning. I'd be the first one to agree that simply having a ratio in the legislation in a non-dynamic environment is not good. Things change, and we have to be able to change with them. By bringing in the ratio panel staffed with labour market specialists, labour lawyers, industry people, you will get excellent decisions that are sustainable for educational purposes,

manpower planning and also for safety. It's time to depoliticize it, and I think that's one of the things the college legislation does very well.

Mr. Jeff Leal: You're in favour of section 60, then?

Mr. Eryl Roberts: Yes.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation, and thank you for your time here today.

Mr. Eryl Roberts: Thanks for having us today.

MERIT OPENSHOP CONTRACTORS ASSOCIATION OF ONTARIO

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next deputation for 4:15, Merit OpenShop Contractors Association of Ontario. Good afternoon and welcome.

Mr. David McDonald: Good afternoon, committee. I'd like to excuse my throat a bit. It's in fairly rough shape.

The Chair (Mr. Lorenzo Berardinetti): I see you have water, but there's also water available there.

Mr. David McDonald: I've got my own.

The Chair (Mr. Lorenzo Berardinetti): Our rules are basically 15 minutes, as you've seen. If you would kindly just introduce yourself so that we can record that in our recording system here.

Mr. David McDonald: Good day. My name is Dave McDonald, I am the chairman of the Merit OpenShop Contractors Association of Ontario.

Our organization was founded some 20 years ago when union-only contracting and bidding was brought into the province in the city of Toronto, which excluded most of our members from bidding on city of Toronto work and most of our contractors and employees. Since that time, we've taken up other causes and other issues which affect the open-shop contractors of the province, and this college of trade is clearly one of them.

Our board and our membership is made up of sub-contractors and general contractors, some in the compulsory trades such as electrical or mechanical, some in voluntary trades such as roofers and carpentry, so they span the whole spectrum of the industry across the province. They are unanimous in opposing this initiative. It, in our view, is simply a back step in progress in the apprenticeship system and the efficiency of the construction industry in this province.

We have followed this process from the beginning, participating in the Armstrong report, participating in the Whitaker report, attending technical briefings, and over the course of following this, we've become more and more alarmed that this is going off track. Almost all the deputations where we attended were advocates from the construction trades. This is not an initiative for all 160 trades in this province; this is a construction trade initiative. It is a construction trade initiative because the Liberal Party likes to do initiatives for the construction trades. That is the origin and single cause for this college of trades to come into being.

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The government claims the college of trades is being created to enhance the status of and promote all trades in the province, so as to recruit workers in anticipation of projected labour shortages in the next coming years. This seemingly noble goal, to create a college on a similar model to the College of Teachers or the college of physicians, is a bad idea that has gained bureaucratic momentum against all logic. You can visit our website to review our comments in the DCN on this matter. For this deputation, I would like to highlight clearly some reasons why the college model, for the trades in this province, is completely idiotic.

The first thing about colleges: All colleges in this province are completely democratic. Everybody votes. Everybody votes for how much they're going to pay; everybody participates. This creature of government that the government is creating is completely appointed: The four levels of boards and the panels who are going to adjudicate compulsory trades and ratios are completely appointed by government, yet it's an arm's-length government institution. This is nonsense. It's ridiculous and it is a political powder keg, because you can change the appointment board government by government, and you can change the whole structure and essence of the whole college. It is a political disaster waiting to happen, and it's an inefficient political disaster waiting to happen.

Other colleges are not set up to promote the members' status and numbers, but to protect the members' interest from personal legal liability. Colleges were set up because the members have legal risks and liabilities in the practice of their profession, and therefore they need high standards of training and codes of ethics to protect them from legal action. The core source of the liability is that the members of other colleges deal directly with the public or the client in one-to-one relationships, and therefore have specific extra liabilities. This model just is simply not the case in the construction industry.

Many colleges, in fact, are a hindrance to recruiting, innovation and flexibility and a barrier to recruitment and entry. Think of the stories of immigrants—immigrant doctors, engineers and lawyers—who are driving cabs because we have colleges which are overly inflexible and will not let them participate. Also consider the long history of new Canadians with limited language knowledge and language skills moving into this end of the construction industry, using their skills but not necessarily having Canadian qualifications or cards and not being able to get them because of their limitations in language skills. How is this college going to help them? How is it going to get the new immigrants who are coming into this country into jobs? It's a barrier to that. It is a profound barrier to that, and that is what it is all about.

Construction craft unions, from the beginning, rely on controlling the supply of labour in particular trades to geographic areas as a means of maintaining union standards and establishing collective bargaining relationships with employers in the area. In order to do that, construction unions must require employers to hire only them. The basic economic theory of union labour law is,

you restrict the supply of labour so that you drive up the cost of labour. That is why the construction trades are vehement in opposing the change in ratios, because it expands the supply of labour and may reduce the cost of labour and their leverage in collective bargaining with their owners.

In a survey in the DCN, the Daily Commercial News, which is the most-read construction paper in this province, they asked the question: "Would it be better to have 3-to-1 ratios or 1-to-1 ratios?" The respondents replied 96% in support of 1-to-1 ratios, yet this government does not act and this college will freeze those ratios forever. It is guaranteed, since this government supports the building trades and supports the declaration of the building trades that only they can be the voice of labour in any government function.

This college will essentially become trapped by the building trades and a small minority of the contractors. Employees in this business in this province will be dominating the rest of the industry, imposing their work conditions, their multi-tiered, multi-trade working situations on the whole industry when the vast majority of the industry does not work like that.

I include in here a letter from the Ontario Road Builders' Association to the city of Hamilton, complaining that the city of Hamilton has signed an agreement with the carpenters' union which has caused their contractors, union contractors, allied to the Labourers' International Union of North America, to be disqualified from bidding on city of Hamilton work because they don't have carpenters. They do all the work. They build bridges, sewers, water mains, roadwork, curb work and parks work without a carpenters' agreement. But because they don't have a carpenters' agreement, they are now disqualified from doing it.

There are many trades in this province, many sectors, where this building trade model is completely inappropriate. In fact, the industry has gone far beyond that. There are multi-tasked workforces out there that are much more efficient, such as Labourers' 183, in the city of Toronto, which is its most successful construction trade union in North America that does not have a carpenters' agreement. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have about five minutes for questions, and we'll begin with the Conservative Party—

Mr. David McDonald: Excuse me. My recommendation would be that this bill be withdrawn and the government do what it should have done in the first place, which is commission a study of education and apprenticeship experts who will survey best practices, best ratios and best apprenticeship completion rates from across this country and come up with models and alternatives that this particular process did not include at all.

The province of New Brunswick has just engaged in just that sort of process. You must get the experts, who are the education people, the college people and the apprenticeship people, involved in this and look at the best results from across the country.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much. There's just over a minute per party. We'll start with the Conservative Party. Ms. Elliott?

Mrs. Christine Elliott: Thank you very much for your presentation and your perspective on this. If you could elaborate just a little bit on your latter point that another province is now providing a model of what, in your view, we should be doing—

Mr. David McDonald: Yes, New Brunswick has just received—they commissioned a study over a year ago and have just received it in the Legislature, so they're starting to review it.

Mrs. Christine Elliott: Okay, thank you.

The Chair (Mr. Lorenzo Berardinetti): We'll go to the NDP. Mr. Marchese?

Mr. Rosario Marchese: I have two quick questions. I'm assuming you believe in apprenticeship programs.

Mr. David McDonald: Our employers use apprenticeships. They send our workers to all the—

Mr. Rosario Marchese: You agree?

Mr. David McDonald: Yes, exactly. But compulsory trades are self-defeating in terms of efficiency and productivity.

Mr. Rosario Marchese: Do you fund any training centres yourself?

Mr. David McDonald: We're an employer organization. We support the colleges which provide training. We do our own in-house training.

Mr. Rosario Marchese: Do any of your members fund any training—

Mr. David McDonald: We're an employer organization. The OGCA, COCA and these other organizations don't fund apprenticeship training. That's the responsibility of the colleges.

Mr. Rosario Marchese: Thank you.

Ms. Marie Sonnenberg: We do, however—

The Chair (Mr. Lorenzo Berardinetti): Before you speak, if you want to just identify yourself for the record. I apologize.

Ms. Marie Sonnenberg: Sorry, I'm Marie Sonnenberg, the executive director. Although we don't provide the training directly, we do fund for apprentices of our members. We do refund their tuition when they have completed the course and passed. So we do strongly support tuition of the apprenticeship programs.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much. We'll move on to the Liberal Party. Are there any questions?

Mr. Kevin Daniel Flynn: I don't think there are any questions in the short time we have. I think the presentation was very clear. Compared to the other presentations, I think it would be in the minority opinion, but thank you for making your presentation.

Mr. David McDonald: I'm afraid it's a minority opinion of the industry itself, which has not been properly consulted and has no expert advice to follow, because there was no expert opinion taken.

Mr. Kevin Daniel Flynn: Thank you very much for appearing today.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We appreciate you coming out today.

ONTARIO ROAD BUILDERS' ASSOCIATION

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our 4:30 presentation, the Ontario Road Builders' Association. Good afternoon, and welcome.

Ms. Karen Renkema: Good afternoon.

The Chair (Mr. Lorenzo Berardinetti): Just to let you know, you have 15 minutes to speak, and any time that you don't use, we'll ask questions. Also, if you could kindly identify who you are so that we can keep it in our Hansard records.

1630

Ms. Karen Renkema: Absolutely. Mr. Chairman and members of the standing committee, good afternoon, and I thank you for having me here. My name is Karen Renkema and I am the director of government relations for the Ontario Road Builders' Association.

ORBA is an association comprised of approximately 95 contractor members that perform work primarily for the Ministry of Transportation and municipalities across the province. We have an additional 85 associate members. Our membership consists of both union and non-unionized road-building construction firms in Ontario, which employ more than 25,000 workers at peak season.

As a bit of an introduction to our comments on this piece of legislation, I would like to share with you our common hiring practices and training, our concerns previous to introduction of this legislation, and our work on the promotion of skilled trades in our industry. These comments will assist you with understanding our concerns.

Our members operate as both prime, or general, contractors and subcontractors in the heavy civil construction industry. Regardless of whether a member is unionized or non-unionized, we employ our labour force from two key contingents of the construction labour market: general labourers, or construction craft workers, and heavy equipment operators, both currently voluntary trades. I must add that we have a few electrical contractor members that operate as subcontractors on MTO and municipal projects, and they of course employ electricians. However, for our purposes today, my comments are related to the majority of our members that are heavy civil prime contractors and subcontractors.

Hiring practices vary within our industry, from a contractor that keeps a very steady workforce that operates within one area of the province and employs the same workforce year after year, to the contractor who is mobile across the province and hires the majority of his or her workforce on a contract-specific basis.

Although hiring practices may vary, the industry's training practices do not. Our membership prides itself on its training. Because there are so many components to road construction, and unique job opportunities, it is most common that our skilled workers are trained on the job,

not in a traditional apprentice/journeyperson fashion, but instead, their abilities are recognized on the job and they are then further trained for the next appropriate promotion on the job site. In addition to providing skills training on the job, our members are active in providing health and safety training that exceeds many standards.

However, a high majority of our labour force does not hold a certificate of qualification. In fact, for many of our members, a certificate of qualification is secondary to the actual skills taught and demonstrated by an employee on that job site. A skilled worker, to our members, is just that: an employee who possesses the appropriate skills to perform his or her job. Our industry does not define skilled workers as those who possess only a certificate of qualification. Therefore, ORBA's involvement with the issue of the college of trades began with a debate on the merits of the compulsory certification of trades, driven by a consultation process led by Tim Armstrong.

Our concerns then and still now are that compulsory certification of trades that our industry most commonly uses will negatively affect our recruitment ability as well as further confuse jurisdictional issues between the trades. Furthermore, compulsory certification would not provide a tool for increasing quality of work in our sector. This is already done through assessments and measurements of a contractor's performance by the owner, most commonly the Ministry of Transportation or a municipality.

We recognize the need for promotion of skilled trades. Planning and recruitment now are essential to having a workforce and skilled trades for the future. However, I may again add that skilled trades come in all different forms, not only those who hold a certificate of qualification.

ORBA, along with 16 other associate members, including the Ministry of Transportation, has formed the Ontario Construction Civil Careers Institute to assist in the recruitment and promotion of skilled trades in our industry. The OCCCI is active in high schools across Ontario as well as trade shows and other skilled trade venues. The formation of the OCCCI initiative was in response to the lack of any comprehensive effort to attract young people to skilled trades in civil construction.

As it relates to the promotion of the skilled trades, we support and applaud the intention for the college of trades to place and organize the promotion mandate under one roof, controlled by those who are employed in and employ skilled trades. However, as I will explain in the following, we are concerned that any input from our industry on promotion of the skilled trades we most commonly use will be minimal, if that.

Quite simply, we have seven key concerns with this legislation. I'll briefly outline them, and I can explain more thoroughly during question time:

(1) The recognition that all skilled trades in this legislation are only those who hold a certificate of qualification.

(2) That participation in the college, including the divisional committee, trade committees and board of governors, is limited to those that employ either a regis-

tered apprentice or journeyman who holds a certificate of qualification.

(3) Further to number 2, that any direction in decision-making that will affect the construction industry as a whole will be done by only a few.

(4) That the timelines for implementation, specifically regarding the compulsory certification review panel, are short and need to be adjusted.

(5) Concern about the obvious and overt ability for the college of trades to have powers of enforcement on employers that employ voluntary trades but yet are not members of the college because they may not employ such workers.

(6) The powers and the appointments of the transitional board: We are concerned with the powers given by the appointments council that is appointed by the government for a college that has been introduced as self-regulating. We also have concerns with the selection of the appointees. Would non-members of the college have an opportunity to sit on the appointments council? How would associations interface etc.?

(7) Concerns about the size of the divisional board, specifically the size of the construction divisional board.

Therefore, as this legislation is currently drafted, we see little initial benefit from the creation of the college of trades. We do have a few possible suggestions for solutions:

(1) Amending the legislation so that it would create a college of compulsory trades with no intention to phase in voluntary trades. This would clarify that enforcement, promotion etc. would be specific to those employed in and employing compulsory trades. Voluntary trades would then not be affected by the college and would continue to operate under the current system, and a compulsory certification review panel could be instituted, but not through the control of the college; or

(2) Immediately amending the legislation and creating an optional membership category for those employing voluntary trades without a certificate of qualification. This would at least give those in our industry the option to have a seat at the table to determine direction, enforcement etc.

(3) Amending the size of the divisional boards as it relates to the construction industry.

(4) Regulations prescribing enforcement must be considered and must not allow enforcement of non-members of the college.

(5) The compulsory certification review panel should not be implemented until the college is fully established.

Bill 183 has the potential to drastically change many aspects of employment, training, jurisdiction and enforcement for the construction industry. We encourage the government to listen to all stakeholder concerns, hit the pause button, and sincerely consider the suggestions provided to them through this committee process.

I thank you for your time and would welcome any questions.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have about six minutes, so two minutes per party. We'll start with the NDP.

Mr. Rosario Marchese: Karen, what kind of workers do you use?

Ms. Karen Renkema: General labourers and heavy equipment operators. If you would define those in the union capacity, for our union membership that would be, for example, Locals 183 and 793.

Mr. Rosario Marchese: And in your view, if they're learning on the job, that's sufficient. That really is sufficient, in your mind.

Ms. Karen Renkema: A good example is, there are courses available for labourers, but the labourers wouldn't go through the whole program; they would go through the course for road-building. The problem with the way that curriculum is currently drafted is that if a labourer were to get a certificate of qualification, he would be going through many different parts of a labour training course that really don't have much to do with road-building, so the training really is not applicable to that. In many cases that's why, for example, a general labourer or those that we hire do not have a certificate of qualification.

In many cases what happens is, if you're unionized or non-unionized, you would either pull in workers who have those skill sets or you would train those workers on the job to get that skill set or send them to a preliminary course, a small course, but it wouldn't lead you to an exact certification of qualification.

Mr. Rosario Marchese: And the heavy equipment operators, they too learn on the job, and that's enough?

Ms. Karen Renkema: I would say that, yes, here and there, in some cases what happens is you have a general labourer who has a skill set to move up the chain and operate small machinery, and then it's identified that they actually have the skill set to operate heavy equipment. Then they're moved, and if you're a unionized company, signed up with that specific union and continue working. But a lot of times it's—we do have probably more operating engineers or heavy equipment operators that have C of Qs than general labourers, yes.

1640

Mr. Rosario Marchese: But you do accept the fact that some workers might need the two or three years of apprenticeship—

Ms. Karen Renkema: We don't argue that fact if they do want to, but the status—

Mr. Rosario Marchese: But your workers don't do that.

Ms. Karen Renkema: We're not suggesting that they don't need it, but we're suggesting that the status of our workforce right now and our availability to recruit workers, suggesting that all workers need to have a C of Q is not necessary in our opinion, no.

The Chair (Mr. Lorenzo Berardinetti): Let's move on, then, to the Liberals. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thanks for the presentation, Karen. Very clear, very well done again. If I was to try to summarize, what I think you said is that you don't have opposition to the college of trades, but you're wondering how it's going to impact or how you can have any input or how your industry can have any impact or

input on the college itself and you wonder if it's necessary for your industry.

Ms. Karen Renkema: Exactly.

Mr. Kevin Daniel Flynn: Some of the possible solutions, how would that make it more meaningful to your industry?

Ms. Karen Renkema: I guess the first two are an either-or suggestion. Right now, we feel, as it's currently drafted, that there will be minimal input from our industry for the labour force that we currently employ, because we don't have many members of our labour force that have certificates of qualification. Therefore, we're suggesting that right away there should be an optional membership category for those employers that employ workers without a certificate of qualification or, if it's not going to be of benefit, suggest that college really be what it was intended to be, possibly, and be a college of compulsory trades and not include the voluntary trades.

Mr. Kevin Daniel Flynn: Okay. Could you expand on your fifth concern? It's at the bottom of the third-last page. I didn't quite follow it.

Ms. Karen Renkema: Sure. Right now, the way the legislation is written, it is not specifically clear, and regulations need to be drafted on the enforcement ability of the college and the enforcement ability of checking for certificates of qualification, ratios, whatever it may be. Because we have members that may have both—general labourers that have a certificate of qualification and those that don't—how will the enforcement ability be driven for those that are non-members of the college? That's what our questions is, and it's not clear right now in the legislation, so we're asking for the regulations to define that a bit more; that the enforcement abilities of the college be defined within the scope of the membership of the college, not exterior to the membership of the college.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the Conservative Party. Mrs. Elliott.

Mrs. Christine Elliott: Thank you for your presentation, Ms. Renkema. You've raised some pretty considerable concerns with respect to this legislation, and I'm just wondering if ORBA was involved in the consultations that preceded the bringing forward of this bill.

Ms. Karen Renkema: We were, yes. We met with Mr. Whitaker, we've been speaking with the minister's office, and we did work with Tim Armstrong through that consultation period as well.

Mrs. Christine Elliott: But yet you still have these concerns that are outstanding?

Ms. Karen Renkema: We do, and we realize it's a difficult place that the government is in right now because of the way that skilled trades are currently defined in legislation and by the government in general. Skilled trades are those with a certificate of qualification. It's difficult. We employ skilled trades, but because they don't have their certificate of qualification they're not a skilled trade? That's difficult.

Mrs. Christine Elliott: So do you think this legislation is ready to proceed at this stage, or do you think

there are still too many unanswered questions? I'd just really like to get a handle on where you feel we're at with this.

Ms. Karen Renkema: Just from gathering input from different stakeholders and talking to different management members of the construction industry, I think a good idea right now would be to hit the pause button, maybe for a month or whatever time it may take, to regurgitate some of these concerns and really hash out how this thing is going to work. I think on paper it looks good, but how is it really going to operate once we start getting into the establishment over a two-and-a-half- or three-year period?

The Chair (Mr. Lorenzo Berardinetti): Thank you for coming out today with your presentation.

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 793

OPERATING ENGINEERS TRAINING INSTITUTE OF ONTARIO

The Chair (Mr. Lorenzo Berardinetti): We'll move on then to our 4:45 presentation, which is the operating engineers, Local 793. Good afternoon and welcome.

Mr. Harold McBride: Good afternoon, Mr. Chair, everyone. Thank you for the opportunity to speak with you on the proposed college of trades. My name is Harold McBride, and I am the executive director for the Operating Engineers Training Institute of Ontario. I have 25 years' experience operating a variety of heavy equipment in the construction industry. Since 2001, I've been with the Operating Engineers Training Institute of Ontario as an instructor, training director and now as the executive director.

With me on my right I have Joe Dowdall, who is our apprenticeship coordinator, who is a C of Q holder for mobile and tower cranes. He's a past member of the hoisting engineers PAC for nine years, currently a resource person with the PAC for the last three years and a representative on the LAC, local apprenticeship committee.

Before we begin, I'd like to give you some background information on who we are. The International Union of Operating Engineers Local 793 represents 11,000 members who operate mobile cranes, tower cranes, concrete pumps, bulldozers, excavators, graders and tractor-loader backhoes, to name a few. There are actually many more; I won't go into them.

The International Union of Operating Engineers Local 793 training fund is affiliated with 800 employers across the province. Training contributions are from members going into the training fund, and training is carried out at the Operating Engineers Training Institute of Ontario. We have two campuses, and both are approved training delivery agents with the MTCU.

At our Oakville campus, mobile crane, tower crane and concrete pump apprenticeship training takes place, while in Morrisburg, our heavy equipment training facility, TLB, excavator, dozer and concrete pump

apprenticeship training takes place. This year in Oakville, we trained about 184 students, consisting of mobile, tower and concrete pump apprentices. On the heavy equipment side, in Morrisburg, we trained about 60 students consisting of pre-apprentices and apprentices.

We also offer other specialized safety training courses at both campuses. We have approximately \$13.5 million worth of training aids, equipment and simulators and are seen as world leaders in training for the operating engineers.

You have in front of you our submission. We realized we couldn't get through it in 15 minutes, so we have our brief here, our speaking notes in front of us. Basically, our position is this: We agree in principle with the college of trades, so long as it improves current apprenticeship systems and works towards expanding compulsory certification. Our fear is, in reflecting back a few years through the whole process, that Tim Armstrong's original intent to expand compulsory certification will be overshadowed by the college of trades.

Today we'd like to address two main areas of concern to us. First, I would like to speak on compulsory certification, and then my counterpart Joe will be speaking on the governance structure.

Compulsory certification is an issue that we have been proactively involved with since the 1980s. Since Armstrong's initiative to review voluntary apprenticeships in 2007, we have also participated in all the submissions, all the meetings regarding the proposed college of trades. The reason we are so passionate about this is because direct benefits have been seen on the hoisting engineers side—and I'm talking about when we switch to compulsory certification. Hoisting engineer has been a compulsory trade under the TQAA since 1982. Before then, 20% of all construction deaths were caused by cranes or rigging accidents associated with cranes. After compulsory certification, that number dropped to 8.8%, and between 2000 and 2004, that figure dropped to less than 5%. So from 20% down to 5%.

For heavy equipment, we've been hoping to have compulsory status since the 1990s. In 2002, we finally got voluntary status under the ACA. One of the problems is that there is no established criteria to evaluate applications. For example, we know on the heavy equipment side that before voluntary apprenticeship, somewhere between—and these are statistics from the CSAO—25% to 41% of all construction deaths were due to heavy equipment, and we know that after 2002, 23% to 62% of all construction deaths were due to heavy equipment. So basically what we see is that the voluntary apprenticeship has done nothing to improve safety on Ontario construction sites.

1650

Why has the heavy equipment voluntary apprenticeship done so poorly, you might ask? For one thing, we know that from 2002 to 2005, only 6% of the 169 heavy equipment voluntary apprentices completed their apprenticeships. So comparatively, for mobile crane, if you want to compare that to mobile crane, completion rates for the same years were 90%. That's alarming, the differ-

ence. And for a tower crane, completion rates were about 75%. Mobile and tower are both higher than the industry average, which is usually around 50%. If you consider that voluntary heavy equipment apprentices make up less than 2% of the total population of heavy equipment operators currently working, it's clear to see how lack of training is contributing to deaths on construction sites. Just a note: This summary represents 52 deaths.

Another important question to ask is why it is acceptable that somewhere between a quarter and a half of all construction deaths are heavy equipment related. The short answer is that it isn't acceptable. The long answer is, Ontario needs compulsory certification and we know that there is a process we have to go through to get there.

One of the problems with heavy equipment voluntary apprenticeship is the number of operators involved. We know that there are about seven times more heavy equipment operators than crane operators. We also know that there is very little incentive for a voluntary apprentice to finish their training, because when they get to the worksite and their assignments on their machines, the employers are not treating the voluntary apprentices like the compulsory apprentices. What is happening, basically, is that they end up treating them like cheap labour, because they're at reduced rates, and they put them on equipment that is totally unrelated to their apprenticeship assignments.

So what is the solution? To begin, we want criteria established so that valid compulsory applications can be heard and measured. Those criteria are the same that Tim Armstrong recommended on page 107 of his report. Here he sets out some general criteria—for example and very importantly, the effect on health and safety. So when you're looking at statistics, the CSAO would forward those statistics that I just read. Consumer protection, registration and completions would also be major considerations. Not only do we want Tim Armstrong's criteria used but we also want the same criteria to be objective, so that it is measurable, like statistics and safety.

Joe is going to talk about the review panels. Basically, we have the same reservations about the role the review panels will play and we want the criteria for compulsory status and ratios to be objective and clearly defined so that there is no reason why the review panel could possibly reject a valid application.

So our recommendations are three: adopt Armstrong's criteria for considerations of ratios and compulsory status; ensure that the criteria is objective, so it's measurable; and grant compulsory status to heavy equipment and concrete pump.

Now I'd like to turn it over to Joe.

Mr. Joe Dowdall: Thank you, Harold. I'd like to address a few concerns we have regarding the governance model; namely, as many have already expressed, we feel that the organizational structure is overly bureaucratic and top-heavy—

The Chair (Mr. Lorenzo Berardinetti): Could you just move the microphone closer when you're speaking, sir? Thank you.

Mr. Joe Dowdall: Although we support initiatives aimed at raising the profile of the trades, we have reservations on how this will be effectively managed, with 151 trades transitioning under the proposed college. We suggest, as you have heard from other trades, that a phase-in approach might work best. For example, compulsory trades could be brought in first.

Next I'd like to speak about the appointments council. We are in agreement that the only way to staff the positions initially is to appoint them; however, it is evident that the transitional board is critical for driving the agenda and setting the tone for the entire college. As such, if the right candidates are selected, then early decisions can ensure a successful transition. In terms of representing the construction sector, we recommend that qualified candidates be chosen from the Provincial Building and Construction Trades Council of Ontario. Following the initial appointments, Bill 183 does not explicitly state how candidates will be selected from that point on. We are against appointments continuing beyond the initial period. We recommend that a fair and equitable process be implemented and that a person's demonstrated experience and strong trades background be a key determinant added to the selection considerations listed under section 63(10) of the bill.

Another concern is the role of the divisional boards. In our view, the divisional boards act as gatekeepers between the board of governors and the trade boards. While we recognize that there is a need to filter and manage the volumes of information and requests from 39 construction trade boards, we question how divisional boards will impartially prioritize requests. On issues related to compulsory certification and ratios, it is preferable for the trade boards to bypass the divisional boards completely and send their recommendations directly to the board of governors.

As for trade boards, it would seem that since they are the last of the permanent boards to be appointed, then they will also have the least power and influence. Therefore, in an attempt to equalize the power structures of the college, the bill must, at the very least, give the trade boards a voice and establishment of the criteria by which compulsory status and ratios are determined and for the development of any regulations established by the board of governors. The only way to accomplish this is to follow Mr. Whitaker's recommendations regarding the phasing-in stages with slight modifications; namely, we agree that during phase one—the first 12 months—the PACs and ICs should be dissolved and the trade board members be appointed. However, if we are to take the sequencing of events suggested by Mr. Whitaker under phase one word for word, then we would see that the regulations are drafted and the criteria for ratio reviews and compulsory restriction status are established before the appointments to various boards are made. We recommend that this be amended. Appointments are to be made first, and the trade boards should be consulted in the development of the compulsory certification and ratio criteria.

Another issue with the trade boards is that we do not support multiple trades under a single board as suggested

in the bill. For example, we anticipate three separate trade boards: hoisting engineers, heavy equipment and concrete pump.

The final issue with the trade boards has to do with their size. A four-member board will not be able to sufficiently represent our trade. Therefore we recommend that the trade boards be expanded to eight members. Under our current PAC for hoisting engineers, we have five labour, five management, and three resource representatives. If the PACs are to be replaced by the trade boards, we feel that an eight-member board is a sufficient compromise.

Moving on to the review panel, the bill is clear that the only means by which compulsory certification may be reviewed is by having recommendations from the trade boards sent up to divisional boards and then to the board of governors, who may then initiate the review panel. We feel that the review panels should be accessible to the trade boards. The bill suggests very little access or communication between review panels and the trade boards. The bill should clearly express that the review panels should consult with the trade boards—

The Chair (Mr. Lorenzo Berardinetti): Excuse me. Sorry to interrupt, but you have about one minute left.

Mr. Joe Dowdall: —from which the request originated. Decisions need to be communicated down and up rather than only up. Two-way communication rather than top-down communication is imperative.

1700

Although you will find other topics covered in our submission, the purpose of today's presentation was to highlight some of our key concerns. We encourage you to look at our submission in greater detail.

In closing, we support Bill 183 in principle and recommend that our proposed changes be considered by the committee. As has always been the case with MTCU, we look forward to working with the college of trades to improve and modernize the apprenticeship system and have the best-skilled workforce in the province of Ontario.

The Chair (Mr. Lorenzo Berardinetti): We have your presentation here as well. Thanks for your very thorough presentation today and for your submission here as well.

That completes the time available. It's now 5 o'clock, and that was our final deputation for the day. Members of the committee, Cornelia Schuh is the legislative counsel for this bill. Amendments are due at 4 p.m. on Monday, September 28.

MILLWRIGHT REGIONAL COUNCIL OF ONTARIO

Mr. Dan Trudel: Excuse me, we have a five o'clock appointment.

The Chair (Mr. Lorenzo Berardinetti): One moment, please. The committee clerk is just going to check right now.

Mr. Dave Levac: On a point of order, Mr. Chair: I seek unanimous consent from the committee, from all parties, to accept the deputation whether it's on the list or not. It sounds to me like we've got a little bit of a problem, so I would ask all members to accept it.

The Chair (Mr. Lorenzo Berardinetti): Do I have unanimous consent to hear from the deputant? Agreed. Please come forward. Our apologies.

Mr. Ian McIsaac: Thank you for taking us. Actually, we've got an e-mail with us, and the appointment was booked for 5 o'clock. Thank you for allowing us to speak today. Our presentation, we won't bore you because you've been listening all day—a long day for everybody—but we've got a couple of things—

The Chair (Mr. Lorenzo Berardinetti): If you would just be kind enough to introduce yourself.

Mr. Ian McIsaac: Will do. I'll start off. My name is Ian McIsaac, I'm the executive secretary treasurer of the Millwright Regional Council of Ontario. With me is Dan Trudel, training director of the Millwright Regional Council of Ontario. We represent members working from Thunder Bay in the north to Windsor in the west, Kingston in the east and Niagara Falls in the south—indeed, the whole province of Ontario.

I would like to congratulate the provincial Liberal government for creating this bill in the first place. It's a bold step, but one which can take the politics out of trades training and related issues and create fair governance by all the stakeholders in the apprenticeship and trades area.

In my brief submission, I would like to submit a list of recommendations that are widely agreed to by most of the provincial building trades. I gave you a copy of these, later on I'll get to it. There's a slight variation in number four. I endorse these, but my main mission today is to put a personal touch to all the technical data you'll be receiving.

As someone who's been involved in the millwright trade in Ontario for over 40 years, this is truly a great step forward for our industry. To have our apprentices and journeypeople look at what they're doing now not just as a job but as a career can only help completion rates and skill levels as well as improve health and safety, not only for the person doing the work, but the Ontario population as a whole. I'll explain that just a little bit later.

In closing on the brief opening submission here, I would also point out that both the Millwright Regional Council of Ontario and our contractors' association fully endorse the new college of trades.

In the overall view I gave you—this was produced by the building trades. I had a look at it, and, rather than reinvent the wheel again here and kind of just going through it again, the only variation I would have—and I've listened to a few of the submissions this afternoon—was number 4. Whether apprentices are part of the college of trades or not, I believe that if you don't make them part of it, they should at least be a preparatory member, if there's such a category ever thought of.

One of the big things, for anybody who doesn't know—and this is one of the reasons I wanted to come here. We can do all the talking and give you all the statistics and everything else to prove our point, but the plain matter of fact is, as a non-compulsory trade, which many of you may not know, in the millwrights—think of it: When you go and you turn on your power, we install all the turbines, we work in the calandrias and install all that in the nuclear power industry. Not only can we hurt ourselves and hurt the partner we're working with, we can hurt the population as a whole if we end up not doing it right.

One of the things that was said in the original submission: If somebody hires a qualified person, they get a qualified person. By having a compulsory status and making sure everybody is qualified and trained, the whole population gains; everybody gains. We can make arguments from the union, non-union, all sides, but I'll tell you what: If you take an apprenticeship—I was in Minister Bentley's office at one time a few years ago, long before this came on the horizon, and I spoke to him. I said, "You're a lawyer. Do you want somebody that's picked up a book and knows a few legal things to be a lawyer representing you, or do you want somebody that's qualified?" All we're saying is, you want a qualified person. There's nothing wrong with that. That doesn't mean they're the best; it just means that they're qualified.

I've got a few things on the college of trades that maybe give us a little bit of a concern. I think when you're looking at it as a group, the fee structure, one thing I would ask you to consider is perhaps a one-time fee or at least a five-year for renewals. One of the reasons for that is, there's one thing I have a fear of. There's a lot of unemployment in the industries right now in Ontario. What you could end up with someday is that here we go for something that's a giant step forward, and they don't pick up the renewal, which would scare me, because they didn't have 50 bucks or 60 bucks or whatever it was to renew it. I would like to see something that led to that.

The other thing is just that we are a trade that for 40 years has been fighting for compulsory certification. There was no panel, really, to look at you. You passed the stuff over and somebody had to look at it. They said they hadn't done it for 20 years; they weren't going to do it now. But there was no objective criticism one way or the other as to whether you legally should get it or legally shouldn't get it. As far as I'm concerned, having a body there that can have a look at it, at the very least I can go back to my members and say, "Look, they didn't give it to us, but this is the reason why." That's fair. I can accept that. I can't accept that you pass it on to someone, and just because we've not done it for 20 years, we ain't gonna do it now. That's not good enough. A little province like Nova Scotia, they've started compulsory certification. A few of the trades have picked it up in the last few months.

One of the things I like is the trade boards; I think they should be modelled on the same line as the PACs. I think we get a lot of good work out of there. What you have

there are people from labour and people from management, the contractors, people who are in the industry. They've got a lot of good advice. With that advice coming forth, I would have no problem with somebody who was on that passing information ahead that may or may not affect our industry because, by and large, they've looked at the problem, they've got good knowledge of the problem and they'll pass it on to the appropriate body above them who may make decisions based on whatever. Another thing I like about it is I see it as maintaining government at arm's length, and I think that's appropriate as well. I think that takes the politics out of the situation and leaves it in a body that looks at it objectively and, in my opinion, properly.

I listened to a few of the comments today, and I won't take up too much of your time. The ratios, for anybody who doesn't understand it—one of the gentlemen earlier mentioned that we just set ratios so we can drive up the wage rate. Nothing's further from the truth. Our ratio right now is three to one. I think a proper body looking at it, I've got no problem. I would suggest that you never go below two to one, and there are a lot of common sense reasons for that. If the journeyman who's working there is off sick or he's on vacation, who's training the apprentice, if it's one to one?

1710

You've got to think: The apprentice is there to pick up so much time in class and training, and so much time on the job and the practical. Another thing is, if the guy's a lousy journeyman and you stuck a guy with him, you're going to have a whole school of lousy journeymen. When they move around, they get different people, they learn different perspectives and they become better tradesman for it.

Enforcement: I won't make a lot of comments on it because I don't have a tremendous knowledge of how it will work out, but I would say that if it's done right, this can be an effective tool in working on the completion rates. That's what it's all about. Completion rates for us are very high. One of the reasons is that as a body, I think we're proactive. We make sure our apprentices get their C of Q, regardless of what. They get a certificate of apprenticeship. After that, we make sure they go and get a C of Q.

Today, the modern apprentice is much smarter than he ever was, and now they're all becoming Philadelphia lawyers. If they can find ways of getting out of it, they will. I think if you have a body that mandates it that you do complete, it's good for everybody.

One of the earlier speakers talked about compulsory should be members, and non-compulsory. I'll tell you what: I think our trade is one of the best trades of the lot. I would go out on a limb and say that we are the best trade in the lot, but that's all subjective. I would say this: We're no less than anybody else. Just because we weren't lucky enough many, many years ago to get compulsory status doesn't mean that we shouldn't be at least looked at and have that reviewed.

For any of you who don't know, we do an 8,000-hour apprenticeship. We do three times at trade school. We also have night school; it's mandated for the apprentices. We do online training, all of this, and we also have additional training. We do follow-ups for the journeymen, because your training doesn't end when you finish an apprenticeship.

Basically, that's most of what I have to say, and I'm quite willing to take any questions.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have about a minute or so per party. We'll follow the rotation. We'll go with the Liberals first. Mr. Flynn, do you have any questions?

Mr. Kevin Daniel Flynn: No. I just want to thank you. I am glad that you did have the opportunity to present. What I got is that you're supportive of the college and you want to play an active role in it.

Mr. Ian McIsaac: Definitely.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on to the Conservatives.

Mr. Robert Bailey: Thank you, Mr. McIsaac, for your presentation, and thank you, Mr. Trudel, for coming in as well. I had the opportunity over many years to work with many of your members in the Sarnia-Lambton area in the Chemical Valley, so I know the training that your members have taken and have done in the past. I know the apprenticeships that they go through in the Chemical Valley and the valuable work they do, so thank you for your presentation today, and we will take it into account.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Marchese.

Mr. Rosario Marchese: Ian, in point 5, you mentioned that the "TQAA and the ACA do not define what is a trade or an apprenticeship. This has led to governments taking liberties in defining the learning of some skills or occupations as apprenticeships."

This has concerned me for quite a number of years, because the government continues to define trades very liberally, and I've been critical of the government in this regard. I really do believe that they should define what a trade or an apprenticeship is, and they haven't done that. Do you want to make a comment on that?

Mr. Ian McIsaac: Yes, I will make a comment. It may seem a bit like tooting your own horn. I really believe that we have a proper trade. I'm not saying that anybody else doesn't, but we have a proper trade. There's an awful lot of things out there—earlier today, in one of the other presentations, one of the gentlemen said that there are some guys who are fixing door locks and stuff like that. You have to have a definition of what an apprentice is in the first place, and if you have a definition of that, you should have a rough idea of what the apprenticeship is. I would hope that the college, in one of their roles, would identify that along the way. I think it would be a useful tool for everybody.

Mr. Rosario Marchese: It's an important thing to do.

Mr. Ian McIsaac: Very important.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation. Again, we apologize for any inconvenience.

That, then, members of the committee, completes the depositions. The next stage will be the consideration of the bill.

Cornelia Schuh is the legislative counsel for the bill, and amendments are due by 4 p.m. on Monday, September 28. The next meeting of this committee will be on October 1 in committee room number 1.

We stand adjourned until next Thursday. Thank you.

The committee adjourned at 1714.

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First Session, 39th Parliament

Assemblée législative de l'Ontario

Première session, 39^e législature

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Thursday 1 October 2009

Journal des débats (Hansard)

Jeudi 1^{er} octobre 2009

Standing Committee on Justice Policy

Ontario College of Trades
and Apprenticeship Act, 2009

Comité permanent de la justice

Loi de 2009 sur l'Ordre des métiers
de l'Ontario et l'apprentissage

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 1 October 2009

Jeudi 1^{er} octobre 2009*The committee met at 0906 in committee room 1.*ONTARIO COLLEGE OF TRADES
AND APPRENTICESHIP ACT, 2009LOI DE 2009 SUR L'ORDRE DES MÉTIERS
DE L'ONTARIO ET L'APPRENTISSAGE

Consideration of Bill 183, An Act to revise and modernize the law related to apprenticeship training and trades qualifications and to establish the Ontario College of Trades / Projet de loi 183, Loi visant à réviser et à moderniser le droit relatif à la formation en apprentissage et aux qualifications professionnelles et à créer l'Ordre des métiers de l'Ontario.

The Chair (Mr. Lorenzo Berardinetti): I call this meeting to order of the Standing Committee on Justice Policy. Today, we have Bill 183, An Act to revise and modernize the law related to apprenticeship training and trades qualifications and to establish the Ontario College of Trades. We're doing clause-by-clause. Before we begin with that, I was just advised that Mr. Marchese is stuck in traffic and will be a few minutes late. There is an NDP amendment, and I would just ask, when we get to it, if we could have unanimous consent to hold it down until he gets here in the next five minutes. Is that okay with everybody?

Mr. Kevin Daniel Flynn: We'd agree to that; definitely.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for that consent.

Are there any comments, questions or amendments to any section of the bill, and if so, to what section?

Mr. Kevin Daniel Flynn: Our first amendment is a housekeeping amendment to section 1, the definition of "Minister's regulation."

I move that the definition of "Minister's regulation" in section 1 of the bill be amended by striking out "74(2)" and substituting "74(3)."

It's just a correction of a subsection reference, just housekeeping.

The Chair (Mr. Lorenzo Berardinetti): Any debate on this? None? All in favour?

Mr. Robert Bailey: I'll call for a 20-minute recess.

The Chair (Mr. Lorenzo Berardinetti): Sorry? You'd like to call a—

Mr. Robert Bailey: A 20-minute recess. According to clause 129(a).

The Chair (Mr. Lorenzo Berardinetti): You are asking for a 20-minute recess?

Mr. Robert Bailey: Sure.

The Chair (Mr. Lorenzo Berardinetti): Pursuant to the standing orders, that's permitted. All right. So we are then recessed for 20 minutes and will return back at 9:30.

The committee recessed from 0907 to 0927.

The Chair (Mr. Lorenzo Berardinetti): The time now being 9:30, I call the meeting back to order. We were dealing with the government motion on page 1. All those in favour?

Mr. Garfield Dunlop: Recorded vote.

The Chair (Mr. Lorenzo Berardinetti): I'm sorry.

Mr. Garfield Dunlop: I asked for a recorded vote.

The Chair (Mr. Lorenzo Berardinetti): I'm just going to make reference to—

Mr. Rosario Marchese: Mr. Chair, if I can ask you—in this room, it's a lot more difficult to hear people. So I'm going to urge everybody to speak up, because I'm getting older.

The Chair (Mr. Lorenzo Berardinetti): I'm just looking at standing order 129(a): "Immediately after the Chair of a standing or select committee has put the question on any motion, there shall be, if requested by a member of the committee, a wait of up to 20 minutes before the vote is recorded." I think you should have asked for a recorded vote before he asked for the 20-minute adjournment.

Mr. Garfield Dunlop: Okay, then; I'll withdraw that request for a recorded vote.

The Chair (Mr. Lorenzo Berardinetti): All right. All those in favour? Opposed? That carries.

The next motion is an NDP motion. Mr. Marchese, you have the floor.

Mr. Rosario Marchese: Sorry. Where are we, Mr. Chair?

The Chair (Mr. Lorenzo Berardinetti): On page 2.

Mr. Rosario Marchese: Page 2?

The Chair (Mr. Lorenzo Berardinetti): Yes, on page 2. Sorry; I'll try to speak louder.

Mr. Rosario Marchese: I move that part I of the bill be amended by adding the following section:

"Phased implementation

"1.1 This act shall be implemented in phases, as follows:

"1. Initially, the act shall apply only in respect of trades that are,"—

The Chair (Mr. Lorenzo Berardinetti): My apologies, and this is my fault. That was the only amendment under section 1, so I'm going to then ask, before we get to section 1.1: Shall section 1, as amended, carry? Section 1 stands as a separate section; we need to vote on section 1. I should ask first: Is there any debate on section 1?

Shall section 1, as amended, carry? All those in favour? Opposed? Carried.

Now we move to section 1.1, which is Mr. Marchese's motion. I do apologize.

Mr. Rosario Marchese: It's okay. Do you want me to start again?

The Chair (Mr. Lorenzo Berardinetti): Yes, please.

Mr. Rosario Marchese: I move that part I of the bill be amended by adding the following section:

"Phased implementation

"1.1 This act shall be implemented in phases, as follows:

"1. Initially, the act shall apply only in respect of trades that are,

"(i) certified trades under the Trades Qualification and Apprenticeship Act, or

"(ii) restricted skill sets under the Apprenticeship and Certification Act, 1998.

"2. The act shall apply in respect of any other trade,

"(i) when it is prescribed as a compulsory trade, or

"(ii) when a provincial advisory committee or industry committee recommends, after an industry-wide consultation, that it be brought under the authority of the college."

The Chair (Mr. Lorenzo Berardinetti): Any debate?

Mr. Rosario Marchese: Yes. The tradespeople made a good case to phase in this act in the following manner, and I believe that it makes a great deal of sense to proceed in that manner. There was some significant debate about whether or not the voluntary sector should be included at once, and there were a number of problems. A number of arguments that were made were that the voluntary sector may, for a variety of reasons, not want to jump in right away. The fees were one of the discouraging parts that they mentioned, that some of the members who were already governed by a different college would find this another burdensome problem to be part of and that the fees would be an element of discouragement in being members of this act. So they argued persuasively that it should be phased in. So, if you go with the trades, they are ready and eager to be part. Once you establish that and you create credibility around the act, it would be much easier for the other volunteer sectors to come into compliance with the bill. I think it makes sense. I think they made a good case, and I'm hoping that the government members might support it.

The Chair (Mr. Lorenzo Berardinetti): Any further debate?

Mr. Kevin Daniel Flynn: Mr. Marchese was right. The building trades did make what I think is a very good argument that has been considered. A phase-in was considered, as I said, in a very serious manner. At the end

of the day, it was decided to proceed, as the way it was originally envisioned would be a much more inclusionary way of dealing with the college. At this point, we would not support it.

Mr. Garfield Dunlop: I appreciate the comments made by Mr. Marchese. I would agree that, particularly in light of the fact that this is a new bill that has not been very well promoted anywhere, a lot of journeymen tradespeople know nothing about this as an act. I think, if we're going to move forward with this bill and look at it in the big picture and try to make people inclusive and make sure they understand what's actually happening out there, that a phase-in would add to it. So I would support the amendment made by Mr. Marchese.

The Chair (Mr. Lorenzo Berardinetti): Any further debate or comments?

Mr. Garfield Dunlop: Mr. Chair, I'd like to caucus this with my colleagues. Under standing order 129(a), I'd like a 20-minute recess.

The Chair (Mr. Lorenzo Berardinetti): A 20-minute recess; okay. So we're recessed until five minutes till 10.

The committee recessed from 0934 to 0952.

The Chair (Mr. Lorenzo Berardinetti): I'd like to call the meeting to order once again. We were dealing with the NDP motion. I'll call for a vote. All those in favour?

Mr. Kevin Daniel Flynn: Which one is this?

The Chair (Mr. Lorenzo Berardinetti): This is the NDP motion on page 2. All in favour? Opposed? That does not carry.

Now we have to vote on—

Interjection.

The Chair (Mr. Lorenzo Berardinetti): I'm sorry. There is another one here. On page 3, there's a PC motion. Either Mr. Bailey or Mr. Dunlop.

Mr. Garfield Dunlop: I move that part I of the bill be amended by adding the following section:

"Economic analysis

"1.1 Before a proclamation is issued under subsection 103(1), the minister shall ensure that an economic analysis of the impact of this act,

"(a) is conducted by a person who is independent of the government of Ontario; and

"(b) is made available to the public."

The Chair (Mr. Lorenzo Berardinetti): Any debate?

Mr. Garfield Dunlop: If I could say a few words on this, Mr. Chairman and members of the committee.

The Chair (Mr. Lorenzo Berardinetti): Certainly, yes.

Mr. Garfield Dunlop: In the province of Ontario, we have, I understand, something like 470,000 citizens who actually have a C of Q, a certificate of qualification, issued by the government of Ontario. That represents all types of apprentices from all different walks of life, and it also represents tens of thousands of businesses across our province.

When we proclaim a piece of legislation like creating a new college, which is what we're doing here—and I think we all know that the reason this legislation came

forward is because there was so much pressure and so many questions were asked to the government of Ontario on the ratio formulas; we have been adamant that they should be changed. We felt that it was kind of an excuse not to proceed with any kind of a change to create this college. That's kind of how we're interpreting the introduction of the colleges act.

When we look at the overall impact and importance of people who hold certificates of qualifications to the province, they are people who basically generate wealth in most of the sectors they belong to. I'm happy and very proud to hold a certificate of qualification myself; I actually have had papers as a plumber, a plumbing contractor, a gas fitter and an oil-burner mechanic. My colleague beside me, Mr. Bailey, who's very interested in this legislation, holds a certificate of qualification as a crane operator. We have other people in the Legislature as well. I know Mr. Bisson is a certified electrician, and Mr. Hillier is as well. I'm not sure if there are any other people who hold C of Qs, but certainly as people who are traditionally not part of the parliamentary system, we feel quite proud that we were able to be elected. We all feel that we're good elected representatives for our taxpayers.

Based on that, I'm concerned about the cost to the taxpayers. What is this actually going to cost? When we look at creating a college, and we understand that for every certificate of qualification, C of Q, there's a number floating around of \$100—that's what I'm told, that the college will want to charge everyone \$100. Maybe when my comments are done, the parliamentary assistant can clarify if there has in fact been a specific dollar value put aside to be part of the college of apprentices.

Now, based on that, we also understand that there may be a fee to business operators. We would like to know, for example, if you're a three-man shop, what will that cost be and what will the impact be on businesses? If you're a hotel or a resort industry and you have to hire licensed tradespeople to do your work, what will the impact be of that, say for example, on the tourism sector?

Today, and I don't know if everybody in this room knows about it, but people who hold a certificate of qualification in a trade pay. For example, they've done their apprenticeships; they go on and pay their taxes, but every three years, they get a letter in the mail from the Ministry of Training, Colleges and Universities, and there's a bill that is sent to them. I believe, right now, that fee is around \$60 for every three years. We don't know, and this is why we want the impact analysis by an outside agency: Will that fee still exist? Or will the fee that licensed tradespeople, or people with a C of Q, pay to the college of apprentices be their fee?

We have all these sorts of concerns that affect individuals who are already paying their taxes; they're already paying for a licence and don't have any idea that this is out there. If you can imagine trying to reach 470,000 people in the province of Ontario who hold this C of Q, you can understand why it's important that we try to make those things happen. That's one of the reasons I supported the first amendment made by Mr.—

Mr. Rosario Marchese: Marchese.

Mr. Garfield Dunlop: —of the NDP. I'm sorry about that.

But on top of that, we also have the impact on, what this will mean to, for example, the construction industry. Let's say it's a fee of \$100 for the person holding the C of Q, and \$100 per employee by the businesspeople. We're just guessing that these are the numbers that might be tossed out there. What will those numbers mean when you take 470,000 at \$200 apiece? Where will that money be spent? How will that money be spent? All these sorts of things, as far as we're concerned, need to be addressed and before this bill is proclaimed. I think the general public has the right to know, not just to be hit with it in an overnight message or announcement. Six months from now you get your first bill, and you pay that amount forever. Is this a cost-saving proposal? In the end, is it a cost saving to the Ontario government that is being passed on?

1000

Obviously, for anyone holding a C of Q and who already pays their fee and suddenly they're going to have to pay another \$100 per year, that's a tax increase. We in our party are adamantly opposed to tax increases at this particular time. We don't think people can handle this. As you know, a lot of the 470,000 people who hold C of Qs today are out of work. What happens to people who retire and might want to hold on to their licence in case they want to go back? These are the types of questions that we think an impact analysis would work well with, and we think it would be to the benefit of all those tradespeople, all those people who hold C of Qs in all the different walks of life. We believe those 200 and some apprentices need to know, and the general public needs to know, what this impact will be.

Once this college is established, it's going to be very difficult to move it away; it's not going to be something that will be removed overnight. So we can't just let something pass through the House, affect 470,000 of our residents and then say, "Sorry, guys. You didn't do anything about it," and it's going to have another negative impact on an already stressed economy and an already have-not province. I think the questions we ask and the concerns we have today are very important. This is a very important part of the bill, and we certainly hope the government would support this.

The Chair (Mr. Lorenzo Berardinetti): Further debate?

Mr. Kevin Daniel Flynn: The government will not be supporting this.

You know, there's a time to stand up and be counted. There's a sense of excitement in the community, as I understand it from all the presentations that came forward. Among some young people who are thinking about potentially entering the trades, there's been a feeling in the past that the trades have played second fiddle to some other occupations and professions. Those days are gone. There's a feeling that the trades should have a form of self-determination that those who are employed in the

trades and the employer sector—it's time to move forward, it's time to really get off the fence. Either you support this college or you don't.

It was interesting to hear the member already talk about removing the college when we haven't even formed the college. We're in the process of forming the college, and the members from the Conservative Party are already talking about taking it apart.

We will not be supporting this. It's time to move on. We've seen some of the games being played already this morning. This is too important an issue to play games with, and it will not get our support.

Mr. Garfield Dunlop: Mr. Chair, if I may—

The Chair (Mr. Lorenzo Berardinetti): I have Mr. Marchese, and I'll put you down next. Go ahead, Mr. Marchese.

Mr. Rosario Marchese: I have to admit that there are some points I agree with the Conservative member on, but there are many others that I disagree with. The way the bill is written suggests that there will be a negative impact, obviously, on everyone, in particular the people around whom we're trying to create regulations. If you look at the objects of the college, they say:

"To establish the scope of practice ...

"To regulate the practice of trades ...

"To develop, establish and maintain qualifications for membership ...

"To issue certificates of qualification ...

"To promote the practice of trades," which is what Mr. Dunlop is saying we should be doing, I imagine.

"To establish apprenticeship programs and other training programs for trades," which I'm assuming you agree with.

"To determine appropriate journeyperson to apprentice ratios for trades subject to ratios," which is something the Conservative members obviously speak frequently to.

My sense is that they will come up with a ratio that will reflect the needs of the trades and the needs of our economy as well, but it will be done by people who have expertise in the field. I think it's as objective as you probably can get.

When you look at the objects of the college, it's really very difficult to think we wouldn't be supporting this. While there are disagreements in some areas where we might make it stronger and/or weaker, I think the objects of the college—I refer to the college because I suspect the Liberals are not going to change the title, so I'm going to refer to it as the college of trades until we get to my amendment.

Mr. Kevin Daniel Flynn: That would be a safe move.

Mr. Rosario Marchese: I thought it would be.

I really do believe we need to move on. I don't believe there is a negative impact on society in general. There might be a negative impact on some of the voluntary trades that will have to fork out \$100 to become members. I think it will put a burden on many members—I'm not sure whether the parliamentary assistant will speak to that, but I believe it does. Many of these

members in the voluntary sector don't hold a certificate of qualification—some do, but many don't—so it will be a burden on many of them. On the whole, I think it is a positive thing and there will be no negative impact as far as I can determine, so it's hard to support the motion.

Mr. Garfield Dunlop: I guess what I was asking for in the amendment was an economic analysis of what it costs the citizens of the province. We've seen enough of this nonsense with the harmonized sales tax and an \$18.5-billion deficit. I think we've got to start looking after the taxpayers, and I for one cannot support anything when I don't know what the cost will be.

If this college is some kind of fancy committee, and every time they turn around they have to turn to the expertise of some organization like Courtyard, I'm going to be a little bit upset. So we're going to ask these questions now. We're getting sick and tired of this crap we've seen with this government, particularly over the last two years—the harmonized sales tax; there's nothing better than that to look at. You may not want to agree with this and with my comments, and I don't expect you to very seriously consider what the economic impact on our taxpayers may be. But we on this side of the House in the Progressive Conservative Party are interested when it costs our taxpayers in the province.

Mr. Kevin Daniel Flynn: It really comes down to the question: Do you trust the trades? Do you trust the industry in this province to run a college in the way we would all like to see it run or not? On this side of the table, we do trust the college; we do trust the trades. We do trust that, when given the self-determination this bill envisions, they will govern themselves accordingly, and that's the impact of this. So if it's a question of trust, let me put clearly on the record that this government trusts the tradespeople in the Ontario.

Mr. Robert Bailey: I trust the tradespeople of Ontario too. I was one of them, probably one of the few people at this table, other than Mr. Dunlop and some others who were. So I've got on the record that I trust the men and women I used to work with in the field every day.

I'm concerned about the consultants, and people like that, who we know will invariably work their way in. They'll ingratiate themselves, and they'll be part of this in some fashion. I've heard from the Sarnia Construction Association. They represent the construction employers in my area. They employ over 5,000 tradespeople. They have a number of people who come in from time to time who are on permit. They can't always supply them from their own workforce, so those people have to come in. They have to take people who aren't, for example, licensed pipefitters, but they'll let them work on permit. These employers are asking me how this would work.

Going on further from that is the cost. The Sarnia Construction Association and the companies they represent are worried that this is just one more cost to them, one more burden, and that if a large project is destined for the Sarnia-Lambton area or anywhere in southwestern Ontario, this will be another cost burden that those businesses will have to pass on to those employers and

that they will have to work with them to try to manage this. As my colleague Mr. Dunlop said, the question we're asking is, who has done the economic analysis? Has anyone got anything they can bring to the table to show us that they did any kind of estimate at all of what this is going to cost?

Another group that came in here one day during committee—I was in most of those sessions—used the number \$40 million, which at this time is used at the Ministry of Training, Colleges and Universities. The question they're asking is, if and when this legislation passes, will that approximately \$40 million move with it from the ministry? Will it go to this new college of trades, or will they be raising all their own revenue to fund the overhead and run the college? Those are some of the types of questions that we're asking on this side, just on this amendment, not about whether we trust individuals who will be part of this, because I've said we do; I know Mr. Dunlop does and I'm sure Mr. Marchese does as well.

1010

We worked with those people at some time or another and we know them, and we do trust them. We're concerned about the other people, and we'll get into that a little later on, about how the composition of the committee, these PACs—whatever the word is going to be, whatever they're going to be called, how they're going to be formed, where the memberships are going to come from. Are they going to be appointed? Are they going to be elected? Are they going to be elected from the shop floor or are they going to be people who actually work and make a living and hold a C of Q? Those are the kinds of questions we're asking. I just want that on the record. If the parliamentary assistant has some information or if any of the other members do, I'd be glad to hear from them.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further debate? All right. Then I'll call for a vote.

Mr. Robert Bailey: I'd like to call for a 20-minute recess, according to 129(a).

The Chair (Mr. Lorenzo Berardinetti): All right. According to the clock I'm looking at here, it's 10:13 and question period is at 10:30.

Mr. Robert Bailey: Come back at 2?

The Chair (Mr. Lorenzo Berardinetti): We'll have to return, then, this afternoon. The committee stands recessed until 2 p.m. this afternoon. Thank you.

The committee recessed from 1011 to 1404.

The Chair (Mr. Lorenzo Berardinetti): Good afternoon, everybody. I'd like to call the meeting back to order. This is the Standing Committee on Justice Policy. We're back on Bill 183, the Ontario College of Trades and Apprenticeship Act, 2009.

Just prior to our break, we had, on page 3, a motion put forward, a PC motion.

Mr. Rosario Marchese: It's on page 3?

The Chair (Mr. Lorenzo Berardinetti): It's on page 3.

I'm just going to call for a vote on this particular amendment. All those in favour of the amendment? Opposed? That does not carry.

Just to remind members of committee: Only those that are either substituted in or are members of the committee can vote. That way—

Interjection.

The Chair (Mr. Lorenzo Berardinetti): It's okay.

We'll move on to page 4, then. This is a PC motion. Ms. Elliott?

Mrs. Christine Elliott: I move that part I of the bill be amended by adding the following section:

"Religious objections

"1.1. If the appointments council is satisfied that an individual, because of his or her religious conviction or belief,

"(a) objects to being a member of the college; or

"(b) objects to paying fees to the college,

"the appointments council shall order that this act does not apply to the individual and that he or she is not required to pay any fees to the college, provided that amounts equal to any fees are paid by the individual to a charitable organization mutually agreed upon by the individual and the college, but if the individual and the college fail to so agree then to a charitable organization registered as a charitable organization in Canada under part I of the Income Tax Act (Canada) that may be designated by the appointments council."

The Chair (Mr. Lorenzo Berardinetti): You have the floor if you wish to speak to it.

Mrs. Christine Elliott: This is an amendment that recognizes a long-standing tradition with respect to a religious objector clause. In the past, there was a process that was established whereby, if someone had a religious objection to joining a union, they were allowed to opt out as long as they paid a similar amount to a charitable organization, such as we've set out in this amendment, which mirrors that long-standing tradition, recognizing in this case that it's certainly analogous—the situation of a union—to being a member of a college of trades.

If someone does have a religious objection, then I would submit that this is something that we should certainly honour and uphold. In fact, we do have a long-standing tradition in Ontario of respecting human rights. One is not allowed to discriminate against anyone on the basis of religious conviction. I think that people's religious views should be upheld and they should be allowed to honour them.

The government did bring forward significant amendments to the Ontario Human Rights Code several years ago. In fact, that was one of the first things that we dealt with when I first came to Queen's Park. It was the first major piece of legislation that I dealt with. At that point, although we differed significantly on the way that the code should be amended, we certainly all did agree, on all three sides, that we do feel very strongly and honour people's human rights, including religious rights.

I would submit and hope that this would be an amendment that the government side and the NDP would be in favour of.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion?

Mr. Kevin Daniel Flynn: I'd like to thank the member for raising this issue. She's right: It is a very important issue and there is some precedent that is being set in other organizations, such as unions, where this is the method of doing things.

As it is being raised as an important issue, it has been noted—the advice we're receiving at this time is that it raises some constitutional issues and that it should be dealt with, but it shouldn't be dealt with by way of this amendment; it should be noted and dealt with either through the regulations, or the college itself should deal with it.

That's not to demean or diminish the issue at all. It's the opinion of this side of the House that this is a very important issue that needs to be dealt with. I thank the gentlemen who have raised it; they have spoken to me personally. It's one that will be dealt with. I will undertake to ensure that it is dealt with in the appropriate way as the legislation moves forward.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion?

Mrs. Christine Elliott: Mr. Chair, prior to a vote with respect to this issue, I would respectfully ask for a recess, pursuant to standing order 129(a).

The Chair (Mr. Lorenzo Berardinetti): So the committee stands recessed for 20 minutes, until, according to the clock—I'm going to use the clock here because it's different from my clock—2:32.

The committee recessed from 1409 to 1429.

The Chair (Mr. Lorenzo Berardinetti): We'll call the meeting back into order. We'll call a vote for the motion on page 4. All those in favour of the motion on page 4, please raise your hands. Opposed? That does not carry.

Before we move on to page 5, members of committee, I just want to bring to your attention: On sections 2 to 8, there are no amendments, so I'm just going to ask for unanimous consent if we can collapse sections 2 to 8 together, and move on to the next motion, which would have to do with section 9. Do I have unanimous consent?

Mr. Dave Levac: Now the vote.

The Chair (Mr. Lorenzo Berardinetti): All in favour? Opposed? Okay; that carries.

So we can move on to page 5, which is an NDP motion. I'll pass the floor to Mr. Marchese.

Mr. Rosario Marchese: I move that section 9 of the bill be struck out and the following substituted:

"Standards board established

"9(1) A board is established under the name Ontario Trades and Occupations Standards Board in English and Conseil ontarien des normes régissant les métiers et professions in French.

"Body corporate

"(2) The standards board is a body corporate without share capital and with all the powers of a natural person.

"Non-application of certain acts

"(3) The Corporations Act and the Corporations Information Act do not apply to the standards board.

"Not crown agency

"(4) The standards board is not an agent of the crown in right of Ontario for any purpose, despite the Crown Agency Act, and shall not hold itself out as such."

The main point of it is just to change the name. It was made by the Ontario Federation of Labour, and I think it's a good title to have. I do believe that the name "Ontario College of Trades" does confuse people. I, and many others, think that when we talk about the college of trades we're thinking it's a college that deals with trades—a real college—and I think this is a more appropriate title. I'm not going to go on too long, because the Liberals don't support it, so there's no point carrying on. I just think it's useful to change the name, in spite of the fact that one of the deputants said that "college" has a great Latin foundation and blah blah blah, but I think it would make it easier if we chose this title that I'm proposing than the one you have proposed.

The Chair (Mr. Lorenzo Berardinetti): Any further debate? Mr. Flynn.

Mr. Kevin Daniel Flynn: It's an interesting idea, but it's not the idea that we'll support. This is about the college of trades. That's how it has been proposed to the stakeholders. That's what people have been passing comment on.

I think it's a huge step forward; it's viewed in the community as something that they want to see, and done quickly and expeditiously because it's going to mean some good things. So we will not be supporting the change in name.

The Chair (Mr. Lorenzo Berardinetti): Any further debate? Ms. Elliott.

Mrs. Christine Elliott: I'm just wondering if Mr. Marchese could indicate whether there are any other major objections from any other organizations that would be opposed to the change.

Mr. Rosario Marchese: Actually, there were only a couple that talked about the name change. There wasn't unanimous support, as there was for including apprentices on the board, for example. So there were some, but not many. For me, it's a way to talk about the trades that is clear and to talk about occupations that is also clear and to make a distinction between the two because they're not the same. Occupations have to do with acquiring a skill set that is not similar to what you have to have in a trade. In a trade, you're required to have two years as an apprentice, or three or four; an occupation doesn't require the same length of study.

In my view, it would have been a wonderful way to distinguish between the two—from authentic trades to skill set occupations. But clearly the government doesn't support that, so there you go.

The Chair (Mr. Lorenzo Berardinetti): Ms. Elliott?

Mrs. Christine Elliott: Mr. Chair, prior to a vote, I would again, in order to consider this matter, respectfully request a recess under standing order 129(a).

The Chair (Mr. Lorenzo Berardinetti): All right. This committee stands recessed until five minutes to 3 o'clock.

The committee recessed from 1434 to 1453.

The Chair (Mr. Lorenzo Berardinetti): I'll call the meeting back to order. We're looking at the motion on page 5. All those in favour of the motion? Opposed? That does not carry.

That completes the amendments regarding section 9. Shall section 9 carry? Carried.

Section 10: Any debate on section 10? None? Shall section 10 carry? Okay, that's carried.

We'll now do section 11. There's a motion here. It's an NDP motion on page 6.

Mr. Rosario Marchese: I move that section 11 of the bill be amended by adding the following paragraphs:

"2.1 To promote and ensure compliance with part II.

"2.2 To appoint inspectors for the purposes set out in subsection 54(1)."

We've heard a number of tradespeople talk to this. I believe, as they did, that there should be an object, that there should be a duty on behalf of the college to promote and ensure compliance. It's not in the act. Secondly, there should be a requirement to appoint inspectors for the purposes set out in subsection 54(1) rather than making it permissive, which means that they may or may not. There should be a duty to appoint inspectors, is the argument we make here. I think most Liberals would like this in general. We'll see.

The Chair (Mr. Lorenzo Berardinetti): Any further debate?

Mr. Kevin Daniel Flynn: Actually, we do like it in general, but we'd ask the members to look forward a little bit to page 8, which is a government motion coming forward that's going to change the objects. That's coming up, and I think it accomplishes it in a similar way but we think in an improved way.

Also, as we move further ahead, you'll be seeing that we're proposing to remove 74(1)(i) and subsection 54(1). It gives the ability to enforce, and I think that's what we're all looking for: to strengthen enforcement. So if you look ahead to that amendment—

Mr. Dave Levac: Before the break.

Mr. Kevin Daniel Flynn: Yes. If you look ahead to that amendment, if we ever get to it, I think that does the same thing. It strengthens enforcement, and I think we agree that we're all for strengthened enforcement.

The Chair (Mr. Lorenzo Berardinetti): Any further debate?

Mrs. Joyce Savoline: Prior to the vote, under 129(a) of the standing orders, I would ask for a 20-minute recess.

The Chair (Mr. Lorenzo Berardinetti): This committee stands recessed until 20 minutes after 3.

The committee recessed from 1457 to 1517.

The Chair (Mr. Lorenzo Berardinetti): Okay. It's 3:20. We're back in session. We'll vote on the NDP motion on page 6. All those in favour of the motion? Opposed? That does not carry.

We'll move on. On page 7; it's an NDP motion. Mr. Marchese.

Mr. Rosario Marchese: I move that paragraph 11 of section 11 of the bill be struck out and the following substituted:

"11. To enforce all laws, codes and standards within the jurisdiction of the college."

The simple point about this is that there are a lot of sections in this bill that are devoted to disciplining activities. The OFL, in particular, made this point, although OPSEU and CUPE did as well, that there are many members who are subject to existing laws, rules and codes, and that this would be yet another body that would create more disciplinary activities for their members. I agree in large part with that and feel that if there was a duty on behalf of the registrar to enforce all laws, codes and standards within the jurisdiction of the college, in effect, it would serve the purposes for most of the trades. That's what I think they want and that's what I think is reasonable, so that's why I moved it.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion?

Mr. Kevin Daniel Flynn: Same argument as before: We agree with the concept; we're doing it a different way.

Mrs. Christine Elliott: I wonder, Mr. Marchese, if you could just indicate if there's any confusion with respect to what might be within the jurisdiction of the college to deal with and what the members might be subject to with respect to other bodies.

Mr. Rosario Marchese: It's in some part confusion, but many of these trades are already subject to existing laws and contract agreements they have in place at the moment, so that applies to them. Then you've got another set of disciplinary rules against their members in this bill. I suspect that this is the bill that will have the ultimate enforcement ability, rather than the current laws that are already in place, and/or both. Will this cause some confusion? I don't know, but it will set in motion a whole set of procedures that will, potentially, harass many of the members, perhaps unduly in some cases, because all you have to do is write a letter saying, "This person was incompetent or whatever," and you're subject to a whole set of disciplinary activities. There may be a role for it, but I think it's a big burden. I think that if they just had a duty to enforce the current laws, that would do it. But clearly the government is saying that it will be dealt with in some other way through another amendment that they have coming.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion?

Mr. Jeff Leal: Time for a recess.

Mrs. Christine Elliott: Chair, prior to the vote on this matter, I would ask for a recess, pursuant to standing order 129(a). Thank you.

The Chair (Mr. Lorenzo Berardinetti): So we stand recessed. It's now 3:23 p.m., so at 3:43 p.m. we come back. Is that right? We're back at 3:43 p.m., then. Thank you.

The committee recessed from 1521 to 1540.

The Chair (Mr. Lorenzo Berardinetti): We're back in session now. We'll vote on the motion on page 7, the NDP motion—

Mr. Rosario Marchese: Is it my motion?

The Chair (Mr. Lorenzo Berardinetti): Yes. This is Mr. Marchese's motion.

Mr. Rosario Marchese: I support it.

The Chair (Mr. Lorenzo Berardinetti): All in favour? Opposed? That does not carry.

The next motion is on page 8. This is a government motion.

Mr. Kevin Daniel Flynn: I move that section 11 of the bill be amended by adding the following subsection:

"Same

"(2) In carrying out the objects described in paragraph 12 of subsection (1), the college shall consult with other entities, including ministries of the government of Ontario, that have legislative authority relating to compliance issues."

In previous comments to Mr. Marchese, I said that we were strengthening enforcement. This very clearly gives the legislative authority to the college to consult with those existing compliance and enforcement agencies we have within the government, so hopefully it accomplishes the same thing.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion?

Mr. Rosario Marchese: Just briefly, I just want to say that it's not the same as mine. It doesn't accomplish the same thing, in two ways. One, "Consult with"? It's like, "Hey, Kevin. Come over to the house; we'll chat and we'll consult with each other about this or that, in matters relating to"—it's weak. All I want to say is, it's pretty weak. As long as you know that.

Mr. Kevin Daniel Flynn: I don't agree.

Mr. Rosario Marchese: Okay. I just thought I'd tell you.

Mr. Dave Levac: Maybe we should take a break to discuss it.

Mr. Kevin Daniel Flynn: I think that deserves a recess.

Mr. Rosario Marchese: No.

The Chair (Mr. Lorenzo Berardinetti): Okay. I have Mr. Leal and I have Mrs. Savoline. Who wants to go first? Mr. Leal, do you want to go first? Actually, I did see Mrs. Savoline—

Mr. Jeff Leal: Mrs. Savoline first.

Mrs. Joyce Savoline: Prior to taking a vote, I would ask for a recess under standing order 129(a).

Mr. Rosario Marchese: Absolutely, because the profundities of this is—

Mrs. Joyce Savoline: We have to talk about it.

The Chair (Mr. Lorenzo Berardinetti): Before we do, can we take Mr. Leal's comment—

Interjections.

The Chair (Mr. Lorenzo Berardinetti): Go ahead, Mr. Leal.

Mr. Jeff Leal: Thanks very much, Mr. Chair. It's interesting and I appreciate the legislative process, that we can move recesses ad nauseam for the next number of days, but it's interesting: I've got a lot of young men and women in Peterborough who are very anxious to get Bill 183 in place so they can fill their destinies because they want to get into apprenticeship programs and they want to get the opportunity to see the ratios modernized. All this is on hold as we go through, ad nauseam, these 20-minute recesses. I'll certainly convey that message back to the good folks of my riding as quickly as I can.

Mr. Rosario Marchese: You're not planning to hold it up for the whole year, are you?

The Chair (Mr. Lorenzo Berardinetti): I'm sorry. Ms. Elliott.

Mrs. Christine Elliott: I think, by the same token, though, one doesn't want to rush things through without thoughtful pursuit of the aims and goals of the legislation to make sure that we get it done properly in the first place and not lead to problems later on.

Mr. Dave Levac: Hence the recesses to discuss it.

The Chair (Mr. Lorenzo Berardinetti): Ms. Savoline has moved the 20-minute recess. We will return at five minutes after 4. Thank you.

The committee recessed from 1543 to 1602.

The Chair (Mr. Lorenzo Berardinetti): I call the committee back to order since it's now 4:05 p.m.

We have the government motion on page 8. All those in favour of the motion? Opposed? That carries.

Shall section 11, as amended, carry? All those in favour? Carried.

We move on to section 12. Shall section 12 carry? Carried.

We'll move on to section 13. On page 9, there's an NDP motion. I don't see Mr. Marchese—

Mr. Kevin Daniel Flynn: I don't mind setting that down. With the shenanigans that are going on today, it's not surprising that somebody may be a minute or two late for one of these recesses. So, I think, just as a courtesy, if you would move ahead to the government motion on page 10, I don't mind going back to the one on page 9—although, at the time, we won't be supporting it.

Interjection.

Mrs. Joyce Savoline: I regret the use of the wording of the member. To say "trivialize" when we're using a legitimate process as set out in the standing order, I think, is totally inappropriate.

Mr. Kevin Daniel Flynn: There's a lot of inappropriate stuff going on today; you're right.

The Chair (Mr. Lorenzo Berardinetti): Let's cool it for a bit—point well-taken and point well-taken. Could we at least set this aside, as a courtesy to Mr. Marchese, on page 9 and stick to what's in front of us here and move on to page 10, which is a government motion? Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that subsection 13(1) of the bill be amended,

(a) by striking out "Five members" and substituting "Four members" in paragraph 2; and

(b) by adding the following paragraph:

“3. One member shall be selected as representing the colleges of applied arts and technology established under the Ontario Colleges of Applied Arts and Technology Act, 2002.”

Very briefly, other colleges have academics on the board. It was requested by the colleges, both individually and through their parent organization. It's a move that the government agrees with.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion on this motion? None, so I'll put the question. I'll ask for a vote on this.

Mrs. Christine Elliott: Chair, prior to the vote being taken, I would ask for a 20-minute recess, pursuant to standing order 129(a).

The Chair (Mr. Lorenzo Berardinetti): Ms. Elliott has moved for a 20-minute recess, so we are recessed until—what time does that take us to?—until about 4:27 p.m. We're recessed until 4:27 p.m.

The committee recessed from 1605 to 1626.

The Chair (Mr. Lorenzo Berardinetti): It now being 4:27, I'll call the meeting back to order. We're on, I believe, page 10. It's a government motion. I'm just going to call the vote. All those in favour? Opposed? That carries.

We agreed to deal with page 9, the NDP motion. I don't see Mr. Marchese here.

Mr. Kevin Daniel Flynn: As a courtesy again, Mr. Chair, we'd be happy to stand all the NDP motions down and move to the government motion on page 14.

The Chair (Mr. Lorenzo Berardinetti): Before we do this, we're going to vote, I think, on a couple of sections here. I need unanimous—

Interjections.

The Chair (Mr. Lorenzo Berardinetti): On page 9, the NDP motion. Mr. Marchese, you have the floor.

Mr. Rosario Marchese: You guys move quickly. I'm going to move this, and when and if it fails, I will withdraw the other ones that are coming up so that we don't waste our time here. I'm sure this won't pass.

I move that paragraph 1 of subsection 13(1) of the bill be amended by striking out “each of the construction, motive power, industrial and service sectors” and substituting “each of the following sectors: construction, industrial, services and other occupations.”

It's a minor change, but I think that “motive power” connects very much to “services” and so it fits in that category. We would add “occupations,” because occupations are separate from everything else. As we argued earlier—the royal we—occupations are different from the trades because the trades are authentic inasmuch as you've got to go through an apprenticeship program of two, three, four, five years, and occupations are broken down into various skill sets and don't have the same length of time in terms of what one does to be able to become an authentic tradesperson. So “occupations” would distinguish one and the other, rather than making them one and the same. I think this is a better way to

divide these sectors. I'm looking for Kevin's support on this.

The Chair (Mr. Lorenzo Berardinetti): Any further debate?

Mr. Kevin Daniel Flynn: I appreciate the intent, and it is an interesting amendment. I also appreciate the member's intent to expedite the process by removing any associated amendments, should this fail. As we see it from this side of the table, each trade has the authority to govern its own scope of practice. The idea behind the concept, and I'm sure the member will agree with me, is to give the college some power itself. We feel that by supporting this, you wouldn't be doing that. The scope of practice and the authority are already contained within the bill, as it's proposed.

Mrs. Christine Elliott: I'd just like to clarify with Mr. Marchese that the amendment that you're proposing really distinguishes between the actual functionality of what's being done in the various categories.

Mr. Rosario Marchese: That's what it would do. I just disagree with Kevin's assessment of the whole thing. I don't want to repeat my argument, but “occupations” is very different from “trades,” and this would distinguish one from the other. This bill lumps the two together and it creates a problem, because it doesn't define what a trade is. It could be the various skill sets as they would follow under occupations and/or it could be a trade. There's no distinguishing between the two. It's one or the other; they're both at the moment. This amendment, in my view, distinguishes between one and the other.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion?

Mr. Rosario Marchese: We need time to reflect on this for sure.

The Chair (Mr. Lorenzo Berardinetti): We'll put the motion to a vote. I'll put the question forward—

Mrs. Christine Elliott: I again would respectfully ask for a 20-minute recess, pursuant to standing order 129(a).

The Chair (Mr. Lorenzo Berardinetti): We are then recessed until—

Interjections.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Until 4:54 p.m. But let's be on time so that we can least get a couple more done.

The committee recessed from 1631 to 1651.

The Chair (Mr. Lorenzo Berardinetti): We're back in session. We have the motion by Mr. Marchese on page 9. All those in favour? Opposed? That does not carry.

That completes section 13. Shall section 13, as amended, carry? Carried.

Sections 14 to 17: There are no amendments on those sections. Shall 14 through to 17 carry? Carried.

We're on to section 18: an NDP motion. Mr. Marchese. It's on page 11, section 18.

Interjections.

Mr. Kevin Daniel Flynn: The member offered to withdraw any associated—

The Chair (Mr. Lorenzo Berardinetti): I'm sorry. Are you withdrawing this?

Mr. Rosario Marchese: Yes, I am. I'm sorry; I was reading—

The Chair (Mr. Lorenzo Berardinetti): On page 11. I'm on page 11.

Mr. Rosario Marchese: Right. I'm just looking to see—I thought we had just dealt with that. Oh, yes we did, before; I got it. Yes, I'm withdrawing that.

The Chair (Mr. Lorenzo Berardinetti): Okay. So that's withdrawn.

We'll move on to page 12.

Mr. Kevin Daniel Flynn: That would be the same.

The Chair (Mr. Lorenzo Berardinetti): Page 12: Are you withdrawing that one as well?

Mr. Rosario Marchese: Yes.

The Chair (Mr. Lorenzo Berardinetti): Yes. Okay. Page 13.

I'm sorry; my apologies. Because you withdrew the one on page 12, I have to ask for a vote on section 18. Shall section 18 carry? Carried.

So now we're on section 19. On page 13, there's an NDP motion.

Mr. Rosario Marchese: I move that paragraph 1 of subsection 19(3) of the bill be struck out and the following substituted:

"1. Four members shall be selected from the relevant sector. Two of the members shall be nominated by the Ontario Federation of Labour and the Ontario Building Trades Council and selected as employee representatives. Two of the members shall be selected as employer representatives."

All I'm doing here is to give the Ontario Federation of Labour and the Ontario Building Trades Council the ability to nominate their own reps because they have a good sense of their own membership and a good sense of who they would like to have represented at that table, so I feel that they should be nominated by those two groups. Of course, they would be therefore selected as employee reps.

The Chair (Mr. Lorenzo Berardinetti): Any further debate?

Mr. Kevin Daniel Flynn: Should the process ultimately end up as this, and I don't think that would be quite satisfactory, we don't think at this point in time that it's a time to be exclusionary; it's a time to be inclusive. What we're saying is that when you review the guidelines that will be reviewed when we're doing the appointments council process, it's a time for the college and the appointments council to make up its mind as to how they would like to see the people appointed. If this was their choice, I don't think they'd get any argument from this side, but we really think it's a decision of theirs to make.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? So I'll put the question.

Mrs. Joyce Savoline: I would ask for a 20-minute recess prior to the vote, according to clause 129(a).

The Chair (Mr. Lorenzo Berardinetti): Okay, so we'll recess for 20 minutes before you vote on the motion, which means that we'll come back at 5:18.

The committee recessed from 1654 to 1715.

The Chair (Mr. Lorenzo Berardinetti): I'll call the committee back to order with the motion on page 13.

All those in favour of the motion? Opposed? It doesn't carry.

Shall section 19 carry? Carried.

We'll move on to section 20. There's a government motion here on page 14.

Mr. Kevin Daniel Flynn: I move that subsection 20(1) of the bill be struck out and the following substituted:

"Trade boards

"(1) The board may establish a body, to be known as a trade board, for a trade or a group of trades in a sector, and shall specify whether the trade board is to have four, six, eight, 10 or 12 members."

This is a good idea that was put forward actually from the building trades unions themselves and the employers.

The Chair (Mr. Lorenzo Berardinetti): Any debate? All those in favour? Opposed? Carried.

We'll move on to page 15. This is an NDP motion. Mr. Marchese.

Mr. Kevin Daniel Flynn: Is this one—

Mr. Rosario Marchese: Do you have it written up there, Kevin? What do you have?

The Chair (Mr. Lorenzo Berardinetti): Page 15.

Mr. Rosario Marchese: The Liberals were on page 15, actually. The Liberals are making some suggested changes which our legal assistant is helping to modify, and the Conservatives need a copy.

Interjection.

Mr. Rosario Marchese: Yes, they're making some changes. And the Conservatives need a copy.

So Cornelia, can I just move this instead of the other, then? Is that the way we do it simply?

Ms. Cornelia Schuh: Sure.

Mr. Rosario Marchese: Or, instead of what I have there, I move this?

Ms. Cornelia Schuh: Well, I gather that what everyone is happy with is this wording.

Interjections.

Mr. Rosario Marchese: So I'll just move this instead of that? Can you do that—

Ms. Cornelia Schuh: Certainly. You could withdraw this one and move that one.

Mr. Rosario Marchese: Yes. So Mr. Chair, I will withdraw what's on page 15 and I have another motion in its stead.

The Chair (Mr. Lorenzo Berardinetti): Which relates to the same section?

Mr. Rosario Marchese: That's right, and everyone has a copy in their hand, except the—

The Chair (Mr. Lorenzo Berardinetti): I don't.

Mrs. Joyce Savoline: We don't.

Interjections.

The Chair (Mr. Lorenzo Berardinetti): Okay, one moment—

Mr. Rosario Marchese: We have copies. Cornelia's ahead of us; she's ahead of everyone. You see?

The Chair (Mr. Lorenzo Berardinetti): Okay, just a two-minute recess to make copies. We've got to get copies in front of everybody. It's only fair that everyone have a copy.

Mrs. Joyce Savoline: You're moving a recess?

The Chair (Mr. Lorenzo Berardinetti): Just to photocopy.

The committee recessed from 1718 to 1722.

The Chair (Mr. Lorenzo Berardinetti): Mr. Marchese's moving a motion regarding subsections 20(2) and (2.1). Go ahead.

Mr. Rosario Marchese: I move that subsection 20(2) of the bill be struck out and the following substituted:

"Functions

"(2) A trade board

"(a) shall advise the divisional board for its sector on issues relating to the trade or group of trades in relation to which it was established;

"(b) may make recommendations, relating to the trade or group of trades in relation to which it was established, to the divisional board; and

"(c) shall perform such other functions as may be assigned by the divisional board or the board.

"Duty of divisional board

"(2.1) A divisional board shall, within a reasonable time after receiving recommendations from a trade board under clause (2)(b),

"(a) consider the recommendations, make a decision about them and send a written response to the trade board; and

"(b) advise the board of the recommendations, decision and response."

We have collaborated with the Liberals on this. That's why I think it's going to pass.

What is new here is (b), that they "may make recommendations, relating to the trade or group of trades in relation to which it was established, to the divisional board"; and the second part, that the divisional board shall, within a reasonable time after receiving the recommendations, respond, basically.

We think this is good. We think that everyone will feel better by way of making recommendations and having a response to them within a reasonable time. This is, I think, a very useful recommendation we're making.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion?

Mr. Kevin Daniel Flynn: We'll be supporting the motion, and we thank the member for his co-operation. Rather than being obstructionist, he's being very co-operative in this case. I think that's great. The genesis was that Mr. Marchese put forward a motion that had a lot of merit. It was examined in detail. Some small changes were made. Some stakeholders were consulted. As Mr. Marchese says, it turned out to be a win-win-win situation for everybody, so we're happy to support it. It strengthens the bill.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion?

Mrs. Christine Elliott: Again, a question to Mr. Marchese: While I appreciate the trade board having some input, I'm just wondering, in practice, do you think that it's going to have a meaningful impact on the decisions being made by the divisional board?

Mr. Rosario Marchese: I think it will. What it does is to have a trade board make recommendations and force a response from the divisional board within a reasonable time. That is good in terms of the trade board feeling that it's making a recommendation and that somebody's going to respond rather than not having that ability to do so and not knowing whether or not you're going to be listened to. So I think it's a good thing.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? I'll put the question to vote on this. All those in favour? Ms. Elliott?

Mrs. Christine Elliott: If I may, before a vote, I would ask for a 20-minute recess pursuant to standing order 129(a).

The Chair (Mr. Lorenzo Berardinetti): Okay, thank you. Yes, Mr. Levac?

Mr. Dave Levac: Could I ensure that when you call for the vote that Ms. Elliott get in front of that? Does that not make any difference when you call for a vote?

The Chair (Mr. Lorenzo Berardinetti): According to the standing orders, she's supposed to wait until—

Mr. Dave Levac: After you call for the vote?

The Chair (Mr. Lorenzo Berardinetti): Yes.

Mr. Dave Levac: I think we should change that in order to—

The Chair (Mr. Lorenzo Berardinetti): So we are recessed—Mr. Zimmer?

Mr. David Zimmer: It being 5:30, I'd like to move that we grant Ms. Elliott, rather than 20 minutes, 30 minutes, which takes us to 6 o'clock, so we can all go home.

The Chair (Mr. Lorenzo Berardinetti): Unfortunately, that would require a change in the standing orders. If the committee wants to adjourn, it can, but in 20 minutes' time, we can at least vote on this motion here.

Mr. Dave Levac: Is it not on the table to vote on?

The Chair (Mr. Lorenzo Berardinetti): Yes. However, adjournment—

Mr. Dave Levac: It does not interfere with the voting if it comes up the next time. That would be the first order of business. I would accept that if—the next time around that we not ask for 20 minutes, because it says "up to." Do you have any problems with adjourning now?

Mr. Rosario Marchese: Whether we recess for 20 minutes or adjourn, the effect is the same after the next one, right?

The Chair (Mr. Lorenzo Berardinetti): Yes.

Mr. Kevin Daniel Flynn: We could argue about this for 20 minutes.

The Chair (Mr. Lorenzo Berardinetti): I'm in the committee's hands. If you want to bring forward a motion to adjourn or—

Mrs. Joyce Savoline: Does it take precedence?

The Chair (Mr. Lorenzo Berardinetti): Adjournment is in order, in my understanding, at any time—unless legislative counsel or the clerk tells me otherwise.

Mr. Kevin Daniel Flynn: I'm at the pleasure of the committee. We'll keep working or we'll adjourn. It really doesn't matter right now, I don't think, at 5:30 p.m. on a Thursday.

The Chair (Mr. Lorenzo Berardinetti): We need unanimous consent for the adjournment, though.

Mr. Dave Levac: Right, but I'm under the impression that we're not trying to interfere with the opposition's right to invoke the section.

Mr. Rosario Marchese: Dave, you're wasting time. Let's come back to it. It's fine.

Mr. Dave Levac: But we could leave now, though.

Mr. David Zimmer: For those folks who live out of town, they'll get a 20-minute—

Mr. Dave Levac: What we're saying now is that we're not trying to interfere with the opposition's right to do the 20-minute breaks; what we're saying is the 20-

minute break is going to take us so close to 6 o'clock, why don't we simply adjourn now with the vote coming on the next time.

Mr. Rosario Marchese: I understand, but we need unanimous consent. Do we have that?

Mr. Dave Levac: Yes, you need unanimous consent. I'm just trying to make it clear that we're not trying to usurp that; we're simply saying the point's been made, we're fine with it, and we move on.

Mrs. Joyce Savoline: Then what happens on Thursday with this motion?

Mr. Dave Levac: On Thursday, we pick up the vote—

The Chair (Mr. Lorenzo Berardinetti): The first thing on the agenda would be the vote on this motion here. Is there unanimous consent, then, to adjourn? Agreed?

So this committee stands adjourned, then, until Thursday, October 8, at 9 a.m.

The committee adjourned at 1728.

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Thursday 8 October 2009

Journal des débats (Hansard)

Jeudi 8 octobre 2009

Standing Committee on Justice Policy

Ontario College of Trades and
Apprenticeship Act, 2009

Comité permanent de la justice

Loi de 2009 sur l'Ordre des
métiers de l'Ontario et
l'apprentissage

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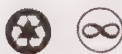
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 8 October 2009

Jeudi 8 octobre 2009

*The committee met at 0904 in committee room 1.*ONTARIO COLLEGE OF TRADES
AND APPRENTICESHIP ACT, 2009LOI DE 2009 SUR L'ORDRE DES MÉTIERS
DE L'ONTARIO ET L'APPRENTISSAGE

Consideration of Bill 183, An Act to revise and modernize the law related to apprenticeship training and trades qualifications and to establish the Ontario College of Trades / Projet de loi 183, Loi visant à réviser et à moderniser le droit relatif à la formation en apprentissage et aux qualifications professionnelles et à créer l'Ordre des métiers de l'Ontario.

The Vice-Chair (Mr. Jeff Leal): We'll bring this meeting of the Standing Committee on Justice Policy to order.

I have a little note here from Susan. I just want to remind members that the deadline for amendments is 12 noon today, as per the order of the House and the time allocation motion which passed yesterday. Any change to your amendments or any additional amendments must be filed with the clerk by 12 noon today.

As we proceed this morning, we left off with an amendment by Mr. Marchese on page 15. Mr. Marchese, do you want to—

Mr. Rosario Marchese: I think I have made my argument. I think we're just voting.

The Vice-Chair (Mr. Jeff Leal): We've already had the debate, yes. All in favour of the NDP motion? Opposed? It's carried.

Interjections.

The Vice-Chair (Mr. Jeff Leal): You're doing well today. Mr. Marchese, you have the next one.

Mr. Rosario Marchese: I do?

The Vice-Chair (Mr. Jeff Leal): Page 16?

Mr. Rosario Marchese: Sorry, page 16 is the NDP motion and the next one is the government motion. Do I have it wrong? Is there a different script that I'm using?

The Vice-Chair (Mr. Jeff Leal): It's your amendment, Mr. Marchese.

Mr. Rosario Marchese: Sorry.

Interjections.

The Vice-Chair (Mr. Jeff Leal): I will give Mr. Berardinetti back the chair.

The Chair (Mr. Lorenzo Berardinetti): My apologies.

Mr. Rosario Marchese: Mr. Chair, once you're in.

The Chair (Mr. Lorenzo Berardinetti): Mr. Marchese?

Mr. Rosario Marchese: This is very strange, because I thought that I made an argument for the amendment on page 16, and interestingly enough we're going back to page 15, which I thought had been dealt with, so it's very strange.

The Clerk of the Committee (Ms. Susan Sourial): We debated the amendment on page 15 last week and now we're doing—

Mr. Rosario Marchese: Yes, I remember it clearly. I'm going to make the same argument for page 16, but that's fine. Somebody should check the record. The argument I made—let me read it first. I move that subsection 20(3) of the bill be struck out and the following substituted:

“Composition

“(3) A trade board shall be appointed by the appointments council and shall be composed of the following, all selected from the relevant trade or group of trades:

“1. Two members nominated by the Ontario Federation of Labour and the Ontario Building Trades Council and selected as employee representatives.

“2. Two members selected as”—and there's a correction there; it shouldn't be “employee reps” but “employer reps.” I saw that as I read it the other day. So, “Two members selected as employer representatives.”

The argument here is that, based on arguments that have been made by different labour groups, the nominations to the appointments council should be made by those who have experience in the trades, who have a great deal of knowledge about the trades and the people that they would like to have represented on the appointments council. If they did this and if they had that kind of power, they would feel that there is a greater sense of control about who's going to make the various appointments to the divisional board, to the trade board, to the review boards etc., and that would create some sense of balance and a sense of control over these trades. This is a way to create that kind of a balance. I agree with some of the trades and labour groups who have put this forward. I think this is a good amendment.

The Chair (Mr. Lorenzo Berardinetti): Comments? Mr. Flynn?

0910

Mr. Kevin Daniel Flynn: Mr. Marchese has had some good amendments; this isn't one of them. We think that the one on page 17 that we're putting forward is better and really spells out that the selection must come from the relevant trades themselves.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? Shall I put the matter to a vote? All those in favour? Opposed? That does not carry.

Page 17: This is a government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that subsection 20(3) of the bill be struck out and the following substituted:

"Composition

"(3) A trade board shall be appointed by the appointments council and shall be composed of equal numbers of members selected as employee representatives and as employer representatives, all selected from the relevant trade or group of trades."

It's really the same argument or the same debate we had on the previous motion. I just put the same point forward.

The Chair (Mr. Lorenzo Berardinetti): Any discussion? Ms. Elliott?

Mrs. Christine Elliott: We have a concern with respect to this amendment. We would rather see them as elected rather than appointed members.

Mr. Rosario Marchese: Sorry, you'll have to speak up. This room is poor for hearing.

Mrs. Christine Elliott: Okay. We would rather see elected as opposed to appointed representatives.

The Chair (Mr. Lorenzo Berardinetti): Further discussion? Mr. Marchese?

Mr. Rosario Marchese: I just want to say that this is okay for me as well. It moves in the direction that we were proposing in our amendment, so I think I can support this.

The Chair (Mr. Lorenzo Berardinetti): All right, then I'll put the matter to a vote. All those in favour? Opposed? That carries.

That completes section 20. So shall section 20, as amended, carry? All those in favour? Opposed? Carried.

There are no amendments for sections 21 to 29, so I'll just put them to a vote together. Shall sections 21 to 29 carry? All those in favour? Opposed? Carried.

We'll move on to the next amendment, which is on page 18. This is an NDP motion. Mr. Marchese.

Mr. Rosario Marchese: I move that paragraphs 3, 4 and 5 of subsection 30(1) of the bill be struck out.

I'm just going to advance an argument that has been made by quite a number of labour groups, where they say Bill 183 creates conditions in which a written complaint from a member of the public is all that is required to trigger disciplinary procedures against college members.

One of the arguments that has been made by many of the groups is that they're already subject to various laws and codes and that this becomes yet another discipline body that the members are going to have to deal with. It could subject many of the members to a broad array of

complaints generated by the public alleging vaguely defined categories of professional misconduct, incompetence or incapacity. It's a concern that they've raised that I think has some merit, and it's for that reason that I have introduced this amendment and moved it.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? Mr. Flynn?

Mr. Kevin Daniel Flynn: We won't be supporting this. It is a concern, obviously, that needs to be managed, and I think everyone around this table would share the concern that any complaints that are brought forward or any investigations that are undertaken aren't either frivolous or vexatious, but what we see this doing is taking away the entire investigative ability of the college and that's not what we want to see. The concern is noted, and obviously the college will want to deal with that, as it's going to deal with a number of issues, but to take away the entire ability to do the investigations I don't think is the right way to go either.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? Mr. Marchese?

Mr. Rosario Marchese: If I could, to Mr. Flynn, you say it takes away all of its investigative power. Does this body have the same power to go after employers who may be abusing the compulsory system in any way?

Mr. Kevin Daniel Flynn: Well, I think it's up to the college of trades. As it moves forward, it's going to define its scope as well. I think by doing this—the concern is noted, obviously. We've heard examples, I think, in other colleges or in other organizations where people are dragged through the mud unnecessarily and simply because somebody had a beef with them. We know that the college has to address that, but I think that's within the scope of the college to decide, not necessarily—

Mr. Rosario Marchese: The question I raise is that the investigation, the investigative powers that it's got to discipline the members aren't as clearly detailed for the employers. Why wouldn't we do the same?

Mr. Kevin Daniel Flynn: Certainly, that can be done, I think, as the college unfolds.

I think what we've done in a previous amendment is expanded the scope of the investigations to clearly express the desire that they work with other investigative forces that are in place today—through the Ministry of Labour, for example—to undertake those investigations. That would include employers.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? Shall I put the matter to a vote, then? Shall the amendment on page 18 carry? All those in favour? Opposed? That does not carry.

That was the only amendment for section 30, so shall section 30 carry? All those in favour? Opposed? Carried.

There are no amendments for sections 31 to 33, so I'll just put the question. Shall sections 31 to 33 carry? All those in favour? Opposed? Carried.

Section 34 is on page 19, a government motion. Mr. Flynn?

Mr. Kevin Daniel Flynn: I move that the English version of section 34 of the bill be amended by striking out “and to render a decision” and substituting “and render a decision”.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any debate or discussion? All those in favour of the amendment? Opposed? Carried.

Mr. Rosario Marchese: I’m glad somebody’s reading all the little details, right?

Mr. Kevin Daniel Flynn: That’s somebody’s job, somewhere.

The Chair (Mr. Lorenzo Berardinetti): Shall section 34, as amended, carry? It’s carried.

There are no amendments for section 35, so shall section 35 carry? All those in favour? Opposed? Carried.

Section 36 is on page 20 here, and the first item is an NDP motion. Mr. Marchese.

Mr. Rosario Marchese: I move that section 36 of the bill be amended by adding the following paragraph:

“1.1 Apprentices.”

The college obviously talks about the various classes, and they include:

“1. Journeypersons.

“2. Persons who employ journeypersons or who sponsor or employ apprentices.

“3. Such other classes of membership as may be prescribed by a board regulation.”

What we’re doing with this amendment is adding apprentices. The government has this as an amendment as well. It was one of the few things that almost every deputant felt should be added to the college, and I’m glad that the government has also put it in as an amendment. We think it’s an important addition to the college’s members.

The Chair (Mr. Lorenzo Berardinetti): Mr. Flynn?

Mr. Kevin Daniel Flynn: I think this is an excellent amendment, and basically, Mr. Marchese just beat us to the punch on this one. We were both thinking alike. I think we heard from every group that came—not every group, obviously, but a number of groups came forward and said, “If you’re going to do it, do it right from day one and include the apprentices.” We think this is supportable.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Bailey?

Mr. Robert Bailey: Mr. Chair, we’ll also be supporting this amendment to do with the apprentices.

The Chair (Mr. Lorenzo Berardinetti): Great. Okay, so I’ll put the matter to a vote.

Mr. Jeff Leal: Mr. Chair?

The Chair (Mr. Lorenzo Berardinetti): Mr. Leal?

Mr. Jeff Leal: Could I get a recorded vote on this one, please?

The Chair (Mr. Lorenzo Berardinetti): You’d like a recorded vote on this one? Okay.

Ayes

Bailey, Elliott, Flynn, Leal, Marchese, Moridi, Rinaldi, Van Bommel.

The Chair (Mr. Lorenzo Berardinetti): Opposed? None. The motion carries.

Mr. Rosario Marchese: Isn’t it great to have unanimity from time to time? It’s like the three parties holding hands. This is beautiful.

The Chair (Mr. Lorenzo Berardinetti): Then I guess on page 21, Mr. Flynn—do you want to withdraw your motion, then?

Mr. Kevin Daniel Flynn: Yes, we’re going to withdraw that motion, because we’ve just had a great motion put forward by Mr. Marchese.

The Chair (Mr. Lorenzo Berardinetti): Thank you.

We’ll move, then, to page 22. It’s a government motion. Mr. Flynn?

Mr. Kevin Daniel Flynn: I move that section 36 of the bill be amended by adding the following subsection:

“Same

“(2) With respect to every trade, there shall be,

“(a) a class of members to which journeypersons in the trade or members of a class prescribed by a board regulation as described in paragraph 3 of subsection (1) are eligible to belong.

“(b) a class of members to which apprentices in the trade are eligible to belong; and

“(c) a class of members to which persons who employ journeypersons or who sponsor or employ apprentices in the trade are eligible to belong.”

This ensures that the college will take a look at any additional members who should or can be included in the college, and it makes it their priority that they do that.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? I’ll put the matter to a vote. All those in favour? Opposed? That carries.

Mr. Kevin Daniel Flynn: Are you going to move 36? Before you go to 37, could you pause?

The Chair (Mr. Lorenzo Berardinetti): Okay. First I’ll take the vote on section 36, as amended. All those in favour? Opposed? That carries. Mr. Flynn?

Mr. Kevin Daniel Flynn: Before you go to 37, if we could take a very short recess. It need not be a 20-minute one. I just need to get something explained to me that I’d like to explain to the committee when we move some further amendments on 37.

The Chair (Mr. Lorenzo Berardinetti): So you’re asking for about five—

Mr. Kevin Daniel Flynn: Five is probably more than enough.

The Chair (Mr. Lorenzo Berardinetti): Until 9:30. Do I have unanimous consent on that?

Mr. Rosario Marchese: That is dilatory.

Mr. Kevin Daniel Flynn: I’m holding things up.

The Chair (Mr. Lorenzo Berardinetti): Okay. We are recessed until 9:30.

The committee recessed from 0920 to 0932.

The Chair (Mr. Lorenzo Berardinetti): Okay. We're back in session. Mr. Flynn, you had requested a short recess to deal with an additional amendment, so you have the floor.

Mr. Kevin Daniel Flynn: We have an amendment to subsection 37(10). I think all members should have a copy of that. I'll read it. I move that subsection 37(10) of the bill be struck out and the following substituted:

"Production of certificate or statement

"(10) For the purpose of determining compliance with part II or a board regulation made under subparagraphs 3 i to iv of subsection 72(1), the holder of a certificate of qualification or statement of membership shall carry his or her certificate or statement and, when requested to do so, shall produce the certificate or statement to a person appointed under subsection 54(1) or a person authorized by a minister's regulation to request such production."

What this does is it grants permissive power to the college to ask that a certificate of qualification be produced and they don't have to come back and ask the ministry each time they want to do it.

The Chair (Mr. Lorenzo Berardinetti): Any discussion? None? All those in favour of the motion? Opposed? That carries.

Shall section 37, as amended, carry? All those in favour? Opposed? Carried.

There are no amendments to sections 38 to 43, so I'll put the question. Shall sections 38 to 43 carry? Carried.

Section 44 is on page 23. It's an NDP notice, actually. Mr. Marchese?

Mr. Rosario Marchese: It's okay. I withdraw it. The argument has been made.

The Chair (Mr. Lorenzo Berardinetti): Okay. Shall section 44 carry? Carried.

Page 24, Mr. Marchese—

Mr. Rosario Marchese: I withdraw it, Mr. Chair. I made the argument and the government has made theirs.

The Chair (Mr. Lorenzo Berardinetti): Okay. Shall section 45 carry? Carried.

Section 46, Mr. Marchese.

Mr. Rosario Marchese: Withdraw.

The Chair (Mr. Lorenzo Berardinetti): Withdrawn? Okay. Shall section 46 carry? Carried.

Section 47, Mr. Marchese.

Mr. Rosario Marchese: Withdraw.

The Chair (Mr. Lorenzo Berardinetti): Withdrawn? Okay.

Shall section 47 carry? That's carried.

Section 48, Mr. Marchese.

Mr. Rosario Marchese: I withdraw it, Mr. Chair.

The Chair (Mr. Lorenzo Berardinetti): Withdrawn. Okay.

Shall section 48 carry? Carried.

Shall section 49 carry? I'm sorry, I should ask the question first. Mr. Marchese?

Mr. Rosario Marchese: Withdraw.

The Chair (Mr. Lorenzo Berardinetti): It's withdrawn? Okay. Shall section 49 carry? Carried.

Section 50, Mr. Marchese.

Mr. Rosario Marchese: Withdraw.

The Chair (Mr. Lorenzo Berardinetti): Withdrawn. Shall section 50 carry? Carried.

Section 51, Mr. Marchese.

Mr. Rosario Marchese: Withdraw.

The Chair (Mr. Lorenzo Berardinetti): Withdrawn. Shall section 51 carry? Carried.

Section 52, Mr. Marchese.

Mr. Rosario Marchese: I withdraw that. We had an argument with Mr. Flynn. I think he won it by 5 to 1.

The Chair (Mr. Lorenzo Berardinetti): Okay. It sounds like a Leafs score. Shall section 52 carry? Carried.

Section 53, Mr. Marchese.

Mr. Rosario Marchese: Withdraw.

The Chair (Mr. Lorenzo Berardinetti): Withdrawn. Shall section 53 carry? Carried.

Section 54, there's a motion on page—

Mr. Rosario Marchese: Sorry.

The Chair (Mr. Lorenzo Berardinetti): Mr. Marchese?

Mr. Rosario Marchese: Sorry; one sec.

The Chair (Mr. Lorenzo Berardinetti): Section 53 was on page 32. Is that okay? Or did you want to speak to—

Mr. Rosario Marchese: No, we're good.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to section 54 now. There are two motions here. The first one is a government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you, Mr. Chair. I move that subsection 54(1) of the bill be amended by striking out "Subject to a Lieutenant Governor's regulation".

A number of stakeholders pointed out to us that other regulatory colleges don't have the same restriction that had been envisioned in the original bill and they felt that the college should not be subject to the government's restrictions in the example that had existed before. The subsection deals with the registrar's inspections. We'll be making a further motion to subsection 74(1) that's going to remove the government's ability to make a regulation, which would have actually restricted the ability of the college to enforce.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion? Mr. Marchese.

Mr. Rosario Marchese: I'll be supporting that. It goes part way in terms of what the trades were saying. My amendment that I will be introducing next goes a little further and we'll see whether the government supports that.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion on this motion? None? Okay. Shall the motion carry? All those in favour? Opposed? Carried.

Page 34.

Mr. Rosario Marchese: I move that subsections 54(1) and (2) of the bill be struck out and the following substituted:

"Appointment of inspectors

“(1) The registrar shall appoint inspectors for the following purposes:

“1. Promoting and ensuring compliance with part II and board regulations made under subparagraphs 3 i to iv of subsection 72(1).

“2. Determining compliance with the provisions described in paragraph 1.

“Entry on premises

“(2) An inspector may enter any premises and may examine any documents or other things on the premises for the purpose referred to in paragraph 2 of subsection (1).”

This amendment is based on the many deputations that were made—a couple—but mostly from the Coalition of Compulsory Trades in Construction. They were saying we should do more than just simply determine compliance. They talked about an enhanced enforcement mechanism and that’s why they suggested the language of promoting and ensuring compliance with restrictions on prohibition on the practice of trades, maximum journey-person-to-apprentice ratios and the use of titles.

I agree with their arguments; I think they make sense. I also agree with the argument that says that they should be able to appoint inspectors rather than “may appoint” inspectors. I know there’s legal language around “may” versus “shall,” but I think we can spell out the fact that the registrar should be able to appoint inspectors. The bill just doesn’t do that.

We think this enhancement is a very good part of what the bill should be about. That’s why I moved it.

0940

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? Mr. Flynn?

Mr. Kevin Daniel Flynn: We won’t be supporting it. It’s not that we don’t understand the sentiment; we just feel—and there probably isn’t going to be agreement on this—that it has already been dealt with in the objects of the college to begin with and on the motion we just passed previous to this. I’m not sure if Mr. Marchese will agree with this, but that’s a reason for us not supporting it.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? I’ll put the question, then. Shall the motion carry? All those in favour? Opposed? It does not carry.

Shall section 54, as amended, carry? All in favour? Opposed? Carried.

Section 55, Mr. Marchese.

Mr. Rosario Marchese: We already debated this. What this motion does is to essentially get rid of the investigator, and Mr. Flynn has made his arguments. I lost it 5 to 1. So I’ll withdraw it.

The Chair (Mr. Lorenzo Berardinetti): Shall section 55, then, carry? Carried.

There are no amendments to 56, so shall section 56 carry? Carried.

Section 57, Mr. Marchese, I think you have a motion on page 36.

Mr. Rosario Marchese: I withdraw that as well, Mr. Chair.

The Chair (Mr. Lorenzo Berardinetti): Withdrawn. Shall section 57 carry? Carried.

Section 58, Mr. Marchese.

Mr. Rosario Marchese: Same argument as before, Mr. Chair. I withdraw it.

The Chair (Mr. Lorenzo Berardinetti): Would you like a vote on that or are you just withdrawing it?

Mr. Rosario Marchese: I’m withdrawing it.

The Chair (Mr. Lorenzo Berardinetti): Okay. Shall section 58, then, carry? All in favour? Opposed? Carried.

Section 59, Mr. Marchese.

Mr. Rosario Marchese: Withdrawn.

The Chair (Mr. Lorenzo Berardinetti): Shall section 59 carry? Carried.

Section 60, these’s a motion here from the government.

Mr. Kevin Daniel Flynn: I move that subsection 60(1) of the bill be struck out and the following substituted:

“Ratios

“(1) If a trade has been prescribed by a minister’s regulation as being subject to a journey-person to apprentice ratio, the board shall, by a board regulation, prescribe the number of apprentices who may be sponsored or employed by a person in that trade in relation to the number of journeypersons employed or otherwise engaged by the person as determined by a review panel.”

This came about as a result of the realization, obviously, that the apprentice-sponsor relationship is not always employee-based; sometimes it’s union-based.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? I’ll put the matter to a vote, then. Shall the motion carry? Those in favour? Opposed? Carried.

Shall section 60, as amended, carry? Carried.

Section 61 is a government motion on page 40.

Mr. Kevin Daniel Flynn: I move that section 61 of the bill be amended by adding the following subsection:

“Exception, prior classification under s. 91(1)

“(1.1) Despite subsection (1), if a trade has already been designated by a regulation made under subsection 91(1), the board shall not prescribe whether it is a compulsory trade or a voluntary trade except on a subsequent review.”

What this really does is it deals with the classification of a trade as either compulsory or voluntary, but a trade that is designated at the start-up of the college will not be subject to an initial review, so the existing trades would simply follow the process and the criteria which will be set out in the board regulation.

The Chair (Mr. Lorenzo Berardinetti): Any discussion?

Mr. Kevin Daniel Flynn: It deals with existing trades.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion? We’ll put the motion to a vote,

then. All those in favour of the motion? Opposed? That carries.

Shall section 61, as amended, carry? Carried.

Shall section 62 carry? Carried.

Section 63 is a PC motion on page 41.

Mr. Robert Bailey: I move that subsections 63(2) to (5) of the bill be struck out and the following substituted:

“Initial composition

“(2) During the period beginning on the day this act receives royal assent and ending on the day before the second anniversary of that day, the appointments council shall be composed of a chair and eight other members appointed by the Lieutenant Governor in Council.

“Term of office

“(3) The term of office of a member appointed under subsection (2) shall be at the pleasure of the Lieutenant Governor in Council and shall not exceed two years.

“Election of members

“(4) On and after the second anniversary of the day this act receives royal assent, the appointments council shall be composed of a chair and eight other members elected by the members of the college for three-year terms.”

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any discussion?

Mr. Robert Bailey: This would just meet many of the aspirations and goals expressed by a number of deputies. They wanted to ensure that the membership was elected by the members who were most affected by the legislation.

The Chair (Mr. Lorenzo Berardinetti): Mr. Flynn?

Mr. Kevin Daniel Flynn: We won't be supporting this from this side. There are a number of parties that have an interest in the formation of the college. What we want to do, as a government, is ensure that there's a balance of what the trades have brought forward, what the employers have brought forward and what the government would like to see, obviously, for all the advantages that come along with a college, and we have to balance that with the public interest and also with consumer protection. We feel that this would not result in the type of balance that we would like to see in the representatives who form the college upon its inception.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? So we'll put the matter to a vote. Shall the motion carry? All those in favour? Opposed? It does not carry.

We'll move to the next page, page 42. It's a PC motion. Mr. Bailey?

Mr. Robert Bailey: I move that section 63 of the bill be amended by adding the following subsection:

“Same

“(2.1) The following rules apply to the appointment of members under subsection (2):

“1. One member must be an employee of a college of applied arts and technology established under the Ontario Colleges of Applied Arts and Technology Act, 2002.

“2. One member must be a representative of trade unions in the construction sector that are organized according to craft or trade.

“3. One member must be a representative of trade unions in the construction sector that are organized 'wall to wall'.

“4. One member must be a representative of non-union workers in the construction sector.

“5. At least six members must be licensed tradespeople with valid licences in Ontario.

“6. At least four members must work full time in a licensed trade or as contractors.

“7. No members may be members of labour organizations that have received funding from a ministry or agency of the government of Ontario during the fiscal year in which the appointments are made or during the three preceding fiscal years.”

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any discussion?

Mr. Kevin Daniel Flynn: We won't be supporting that from this side. Obviously, there's a public appointments process that is going to result in what we hope is a balanced college. This is pretty prescriptive and I don't think that's what the public process envisioned.

The Chair (Mr. Lorenzo Berardinetti): Further discussion? None? We'll put the motion to a vote, then. All those in favour? Opposed? The motion does not carry.

Shall section 63 carry? All those in favour? Opposed? Carried.

Shall section 64 carry? Carried.

Section 65: On page 43, there's a government motion. Mr. Flynn?

Mr. Kevin Daniel Flynn: I move that subsection 65(3) of the bill be struck out and the following substituted:

“Cancellation on request

“(3) The minister may cancel the registration of a registered training agreement on the written request of the apprentice or the sponsor named in the agreement.

“Cancellation, no statement of membership

“(3.1) A registered training agreement is cancelled,

“(a) on the day that is one month after the date of registration, if the individual does not, on that day, hold a statement of membership as an apprentice in the trade to which the registered training agreement relates;

“(b) on the day the individual's statement of membership is revoked or cancelled.

“Suspension if statement of membership suspended

“(3.2) If an individual's statement of membership is suspended, any related registered training agreement is also suspended on the same date; the suspension of the agreement continues until the statement of membership is no longer suspended.”

This amendment ensures that the status of any training agreement or membership in the college is aligned and that the same things are happening at the same time: Either you're a member in good standing; you're a member who has been cancelled or suspended; or you've

had the agreement revoked. The only reason this is being brought forward now is the amendment that carried earlier today that apprentices—which is a great idea—are now to be a part of the college.

0950

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion? None? So we'll put the matter to a vote. Shall the motion carry? All those in favour? Opposed? Carried.

On page 44 is another government motion.

Mr. Kevin Daniel Flynn: Very similar to the previous one, or the reasons are similar:

I move that clause 65(4)(a) of the bill be struck out and the following substituted:

“(a) the agreement or a provision of this act or of a regulation made under this act is not being complied with;”

What this deals with would be the revocation or the suspension of a training agreement as in the previous amendment. It's a housekeeping type of amendment. The change is being underlined in the clause itself. That would be the only change.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? We'll put the motion to a vote. All those in favour? Opposed? Carried.

Shall section 65, as amended, carry? All those in favour? Opposed? Carried.

Shall section 66 carry? All those in favour? Carried.

Shall section 67 carry? Carried.

Shall section 68 carry? Carried.

On page 45 there's a government motion regarding section 69. Mr. Flynn?

Mr. Kevin Daniel Flynn: I move that section 69 of the bill be amended by striking out “hours of work” and substituting “hours”.

This is being offered because it deals with the number of hours that an apprentice must complete in order to satisfy the program requirements of that apprenticeship. It only applies to certain trades that are already prescribed in the minister's regulation. The concept of hours relates to the entire apprenticeship experience—on the job and the in-school component of training. The original wording may have been construed by some to relate only to on-the-job training and this is a recognition that some or most apprenticeships deal with both: the schooling involved and on-the-job experience. So it's just a clarification, really.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? So we'll put the motion to a vote. All those in favour of the motion? Opposed? That carries.

Shall section 69, as amended, carry? Carried.

Section 70, we have the photocopied government motion which was distributed about half an hour ago, or less than half an hour ago. Mr. Flynn?

Mr. Kevin Daniel Flynn: This applies to apprentices as well and it certainly is a change. As I noted earlier, it would be introduced now.

I move that subsection 70(8) of the bill be struck out and the following substituted:

“Production of proof of apprenticeship

“(8) For the purpose of determining compliance with part II or a board regulation made under subparagraphs 3 i to iv of subsection 72(1), an apprentice shall carry the proof of his or her apprenticeship issued by the minister and, when requested to do so, shall produce the proof to a person appointed under subsection 54(1) or a person authorized by a minister's regulation to request such production.”

It's a permissive amendment that gives the authority and the power to the college to deal with apprentices as well in this manner.

The Chair (Mr. Lorenzo Berardinetti): Any discussion? None? We'll put the motion to a vote. Shall the motion carry? All those in favour? Opposed? Carried.

Shall section 70, as amended, carry? All those in favour? Opposed? Carried.

Shall section 71 carry? All in favour? Opposed? Carried.

Section 72 on page 46, there's a government motion. Mr. Flynn?

Mr. Kevin Daniel Flynn: I move that paragraph 3 of subsection 72(1) of the bill be amended by adding “in accordance with section 36” after “in the college” in the portion before the subparagraphs.

Section 72 provides the board with its regulation-making authority and subsection 72(1) deals with the membership, which is what we're dealing with today. This provides some certainty to the authority of the college in respect to section 36.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? We'll put the motion to a vote. All those in favour? Opposed? That carries.

Page 47 is another government motion. Mr. Flynn?

Mr. Kevin Daniel Flynn: I move that paragraph 19 of subsection 72(1) of the bill be amended by striking out “that must be worked to complete an apprenticeship program” and substituting “that must be completed for an apprenticeship program”.

This deals, again, with the regulation-making authority, and it clarifies the hours completion as opposed to the hours-of-work completion.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any discussion? None? We'll put the motion to a vote. All those in favour? Opposed? Carried.

Page 48, Mr. Marchese.

Mr. Rosario Marchese: I move that subsection 72(1) of the bill be amended by adding the following paragraph:

“25. prescribing a time period for the purpose of subsection 20(2.1).”

This is a consequential amendment arising out of the amendment that we passed on page 15, which was rewritten by the government members. It simply gives the authority to establish a time by which either a divisional board and/or the board would be asked to respond to a request made by a trade board.

It is consequential. Is that okay, Kevin, or do we need Cornelia to speak to this?

Mr. Kevin Daniel Flynn: If it is consequential, then certainly I would like to support it. That's not the information I have before us. If you don't mind another brief recess for a couple of minutes, I'd be happy to come back with some instruction.

Mr. Rosario Marchese: Okay.

The Chair (Mr. Lorenzo Berardinetti): We'll recess for five minutes, until 10:05. It's at least 9:59, according to that clock, so we'll round it off to 10:05. We'll recess till then. Thank you.

The committee recessed from 0957 to 1004.

The Chair (Mr. Lorenzo Berardinetti): We're now back in session. Mr. Flynn, you had requested a short adjournment, I think it was.

Mr. Kevin Daniel Flynn: Thank you, Mr. Chair. I think the recess allowed time for some clarity. As I understand it, the change would have been consequential to a first amendment that had been proposed. By agreement, in working with the stakeholders and Mr. Marchese and everything, we came to a different amendment, and this would not be consequential to that amendment. So for that reason we don't believe it's necessary to support this. But I want the member to know that I went out there with the intent of trying to support it.

The Chair (Mr. Lorenzo Berardinetti): Mr. Marchese?

Mr. Rosario Marchese: I just want to say that my language would have been better and that prescribing a time period would have given a much more fixed time rather than "reasonable time." "Reasonable time" is a very flexible and elastic thing that could start from zero and go all—

Mr. Kevin Daniel Flynn: It's a very liberal term.

Mr. Rosario Marchese: Very liberal—too liberal—and it could go on forever. So my language would have been better and I understand why it's not as consequential anymore. I lost that one 5 to 1 again.

The Chair (Mr. Lorenzo Berardinetti): Another Leafs score. Any further discussion?

Mr. Rosario Marchese: So I—well, it can be defeated, I suppose. It doesn't matter.

Mr. Kevin Daniel Flynn: It's up to you.

Mr. Rosario Marchese: I withdraw it.

The Chair (Mr. Lorenzo Berardinetti): You withdraw it? Thank you.

There were two amendments passed on section 72, so I'll put the question. Shall section 72, as amended, carry? Carried.

Section 73, page 49, is a government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: We're on section 73 now; is that right?

The Chair (Mr. Lorenzo Berardinetti): Yes, section 73 and page 49 of our amendment package.

Mr. Kevin Daniel Flynn: I move that paragraph 25 of subsection 73(1) of the bill be amended by striking out "annual fees" and substituting "periodic membership fees".

The intent of this is it really enables the college to set the terms of its own membership fees and it's not going to restrict the college to an annual fee. It may be semi-annual, it may be biannual. It's really up to the college.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? All those in favour? Opposed? Carried.

The next page, on page 50, another government motion. Mr. Flynn?

Mr. Kevin Daniel Flynn: This is a housekeeping amendment.

I move that the English version of paragraph 26 of subsection 73(1) of the bill be amended by striking out "a person is not a member" and substituting "a person who is not a member".

The underlying word is "who," which is being added to the sentence.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any discussion? None? Shall the motion carry? Those in favour? Opposed? Carried.

Shall section 73, as amended, carry? Carried.

We'll move on to section 74, page 51, an NDP motion.

Mr. Rosario Marchese: Can I ask you, Kevin, is my motion the same as yours?

Mr. Kevin Daniel Flynn: I'm just trying to get to it. I'm—

Mr. Rosario Marchese: Because it's written differently, but I'm assuming it is the same.

Mr. Kevin Daniel Flynn: Yes, it ends up being the same.

Mr. Rosario Marchese: That's what I thought.

I move that subsection 74(1) of the bill be amended by striking out clause (i).

As it was written, the registrar would have been restricted in the power to appoint. This gives the registrar clear power to appoint.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? Mr. Flynn?

Mr. Rosario Marchese: Unless there's a different argument.

Mr. Kevin Daniel Flynn: Is the intent of these the same? Okay. We were going to propose the same thing. It's two excellent ideas and Mr. Marchese may have beaten us to the punch here.

Mr. Rosario Marchese: Wow. Let me put "V" on this.

Mr. Kevin Daniel Flynn: But the intent is that by removing the regulation authority, it means that the college is, in fact, self-regulating, and that's what we all want at the end of the day. We had proposed to move that section 74(1) of the bill be struck out, and I understand that this does pretty much the same thing.

The Chair (Mr. Lorenzo Berardinetti): We'll put the matter to a vote. Shall the motion by Mr. Marchese carry? All those in favour? Opposed? Carried.

On page 52, the government motion, then, would be—would that be redundant?

The Clerk of the Committee (Ms. Susan Sourial): You could withdraw it.

Mr. Kevin Daniel Flynn: Yes. We'll withdraw that.

The Chair (Mr. Lorenzo Berardinetti): It's withdrawn, thank you. We'll move on to page 53. We have a PC motion.

1010

Mr. Robert Bailey: I move that section 74 of the bill be amended by adding the following subsection:

"Exception re fees

"(1.1) A bylaw made under paragraph 25 of subsection (1) does not require the following entities to pay fees with respect to members of the college hired by the entities:

"1. Municipalities and municipal agencies.

"2. Universities and colleges of applied arts and technology.

"3. School boards.

"4. Hospitals."

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion? Mr. Flynn?

Mr. Kevin Daniel Flynn: No, we won't be supporting this. We think that it's something that will be dealt with as we move forward with the college.

The Chair (Mr. Lorenzo Berardinetti): Okay.

Mr. Robert Bailey: I wanted to explain my thinking on it.

The Chair (Mr. Lorenzo Berardinetti): Sure. Go ahead, Mr. Bailey.

Mr. Robert Bailey: Our thinking on this was that we're only transferring money between provincial agencies. The bulk of these agencies receive their funding from the provincial government at some time and it would be just a matter of—I don't want to say robbing Peter to pay Paul, but I guess that's the easiest way to explain it. We'd only be transferring money back and forth. So that's the thinking behind that.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? We'll put the motion to a vote, then. All those in favour? Opposed? That does not carry.

Mr. Marchese, I think you have a motion on page 54.

Mr. Rosario Marchese: I withdraw it. I think we've dealt with it.

The Chair (Mr. Lorenzo Berardinetti): Okay, so withdrawn.

Shall section 74, as amended, carry? Carried.

Sections 75 to 85, I don't think there are any amendments to those sections. That's my understanding here.

I'll put the question: Shall sections 75 to 85 carry? Carried.

The next motion, then, would be on page 55—it's a revised motion. One moment, please. This is a revised government motion, page 55.

Mr. Kevin Daniel Flynn: I move that the English version of subsection 86(4) of the bill be amended by striking out "subsection 62" and substituting "section 62".

I think all members can see that a section was inadvertently referred to as a subsection.

The Chair (Mr. Lorenzo Berardinetti): Any discussion? None? All in favour of the motion? Opposed? Carried.

Shall section 86, as amended, carry? Carried.

Sections 87 to 89, there are no amendments either. So I'll put the question: Shall sections 87 to 89 carry? Carried.

Section 90. On page 56 there is a government motion.

Mr. Kevin Daniel Flynn: This is a fairly wordy one but what it deals with is the apprenticeships, now that we've included—it's a transition provision that deals with apprentices.

I move that section 90 of the bill be struck out and the following substituted:

"Training agreements and contracts of apprenticeship

"90.(1) Training agreements registered under the Apprenticeship and Certification Act, 1998 and contracts of apprenticeship filed under the Trades Qualification and Apprenticeship Act and that were valid immediately before the coming into force of section 65 shall be deemed to be registered training agreements under this act.

"Deemed statement of membership

"(2) The apprentice named in a valid deemed registered training agreement to which subsection (1) applies is deemed to hold a statement of membership as an apprentice in the trade to which the registered training agreement relates.

"Expiry

"(3) A deemed statement of membership to which subsection (2) applies ceases to have effect on the first anniversary of the coming into force of section 65 unless an earlier date is prescribed by a minister's regulation for statements of membership related to the trade to which the deemed statement of membership relates.

"Right to obtain statement of membership

"(4) The holder of a valid deemed statement of membership to which subsection (2) applies is entitled to a statement of membership as an apprentice in the relevant trade issued by the college upon filing an application with the registrar and upon paying the fees required by the bylaws of the college if the application is filed and the fees paid before the expiry of the period referred to in subsection (3)."

The Chair (Mr. Lorenzo Berardinetti): Thank you.

Mr. Kevin Daniel Flynn: I think the explanation I gave at the start should suffice.

The Chair (Mr. Lorenzo Berardinetti): Any discussion? None? I'll put the motion to a vote. All those in favour of the motion? Carried.

Shall section 90, as amended, carry? The section is carried.

Shall section 91 carry? Carried.

Shall section 92 carry?

Mr. Kevin Daniel Flynn: I think we have an amendment to 92.

The Chair (Mr. Lorenzo Berardinetti): I'm sorry, did I miss something? My apologies.

Mr. Kevin Daniel Flynn: No problem.

Interjections.

Mr. Robert Bailey: Page 57.

Mr. Kevin Daniel Flynn: Oh, it's a new section that follows 92?

The Chair (Mr. Lorenzo Berardinetti): Yes. So we have to vote on section 92, and then we'll go to section 92.1.

Mr. Kevin Daniel Flynn: Okay.

The Chair (Mr. Lorenzo Berardinetti): So I'll just put the question: Shall section 92 carry? Carried.

Section 92.1, Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that the bill be amended by adding the following section:

"Transitional duties of board

"92.1(1) On or before the implementation date, the board shall,

"(a) cause the initial review referred to in subsection 60(3) to be begun with respect to every trade that has been prescribed by a minister's regulation as being subject to a journeyman to apprentice ratio, if the minister's regulation is in force on or before the implementation date; and

"(b) make a board regulation described in subsection 61(2).

"Implementation date

"(2) In subsection (1),

"'implementation date' means the later of,

"(a) the first anniversary of the coming into force of section 12;

"(b) such other date as may be prescribed by a regulation made under subsection (3).

"Regulations

"(3) The Lieutenant Governor in Council may make regulations prescribing a date for the purposes of the definition of 'implementation date' in subsection (2)."

Section 92 is a transition provision dealing with the issue we've all talked about, that being the ratios—that is, the existing ratio under the current TQAA shall remain the ratio until amended by the review panel, which was one of the intents of this all along. In short, ratios must be begun to be dealt with within the first year.

The Chair (Mr. Lorenzo Berardinetti): Thank you.

Mr. Kevin Daniel Flynn: We understand this is a priority for stakeholders, both employers and employees, and trades and trade unions.

The Chair (Mr. Lorenzo Berardinetti): Any discussion? Mr. Bailey?

Mr. Robert Bailey: Yes, thank you, Mr. Chair. I'd just like to get a commitment that it does say—that was my question. So the ratios will be reviewed in that first year?

Mr. Kevin Daniel Flynn: Within the first year.

Mr. Robert Bailey: Okay. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion?

Mr. Kevin Daniel Flynn: Actually, just so I'm clear on that, they may not be dealt with completely but the process to deal with them will have started within the first year—just to be clear.

Mr. Robert Bailey: Good. Thank you.

The Chair (Mr. Lorenzo Berardinetti): So because this is a new section, the question then is, shall section 92.1 carry? Carried.

Mr. Kevin Daniel Flynn: Can we have a recorded vote on that one?

The Chair (Mr. Lorenzo Berardinetti): On section 92.1?

Mr. Kevin Daniel Flynn: I think we all agreed on that.

Mr. Rosario Marchese: It's a bit late. We already carried that.

The Chair (Mr. Lorenzo Berardinetti): It already carried, but if we can have consent to reopen it for a recorded vote—do I have unanimous consent?

Mr. Kevin Daniel Flynn: Yes.

Mr. Robert Bailey: Sure.

The Chair (Mr. Lorenzo Berardinetti): So we have unanimous consent. A recorded vote has been asked for on section 92.1.

Ayes

Bailey, Flynn, Leal, Marchese, Moridi, Rinaldi, Van Bommel.

The Chair (Mr. Lorenzo Berardinetti): None opposed. Thank you. So the section carries, then.

Shall section 93 carry? Carried.

Shall section 94 carry? Carried.

There is a new section here, 94.1. I believe that's an NDP motion, Mr. Marchese, on page 58.

Mr. Rosario Marchese: I move that part XV of the bill be amended by adding the following section:

"Employment in Ontario public service

"94.1(1) The number of positions and hours worked within the Ontario public service in connection with the administration of all requirements of the Ontario apprenticeship program immediately before section 102 comes into force shall be maintained and expanded.

"Same

"(2) Every person who is hired as an employee of the college, of a divisional board or of a trade board shall be a member of the Ontario public service with full successor rights, seniority and pension benefits."

It's self-explanatory, Mr. Chair.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion?

Mr. Kevin Daniel Flynn: There's not much of a discussion. We just don't agree with it.

Mr. Rosario Marchese: On a recorded vote, Mr. Chair.

The Chair (Mr. Lorenzo Berardinetti): A recorded vote, then.

Ayes

Marchese.

Nays

Bailey, Flynn, Leal, Moridi, Rinaldi, Van Bommel.

The Chair (Mr. Lorenzo Berardinetti): That motion does not carry.

We'll move on to sections 95 to 100. There are no amendments put forward here, so I'll put the question. Shall sections 95 to 100 carry? Carried.

On section 101 there's a government motion, page 59.

Mr. Kevin Daniel Flynn: This is just a drafting correction to section 101.

I move that section 101 of the bill be amended by striking out "92, 93, 94 and 95" and substituting "92, 92.1, 93 and 94".

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any discussion? None? Shall the motion carry? It carries.

Shall section 101, as amended, carry? Carried.

Shall section 102 carry? Carried.

Shall section 103 carry? Carried.

Shall section 104 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 183, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? All in favour? Opposed? Carried.

Thank you, everybody. We are now adjourned.

The committee adjourned at 1021.

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Official Report of Debates (Hansard)

Thursday 5 November 2009

Standing Committee on Justice Policy

Barrie-Innisfil Boundary
Adjustment Act, 2009

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Jeudi 5 novembre 2009

Comité permanent de la justice

Loi de 2009 sur la modification
des limites territoriales
entre Barrie et Innisfil

Président : Lorenzo Berardinetti
Greffière : Susan Sourial



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICY

Thursday 5 November 2009

COMITÉ PERMANENT
DE LA JUSTICE

Jeudi 5 novembre 2009

The committee met at 1001 in the Simcoe County Museum, Minesing.

The Chair (Mr. Lorenzo Berardinetti): Good morning and welcome, ladies and gentlemen. I'd like to call to order the meeting of the Standing Committee on Justice Policy. On today's agenda, we're dealing with Bill 196, Barrie-Innisfil Boundary Adjustment Act, 2009.

SUBCOMMITTEE REPORT

The Chair (Mr. Lorenzo Berardinetti): The first item on the agenda is the subcommittee report, dated October 19, 2009. Do I have a member to read the report and move its adoption? Mr. Zimmer.

Mr. David Zimmer: Your subcommittee on committee business met on October 19, 2009, to consider the method of proceeding on Bill 196, An Act respecting the adjustment of the boundary between the City of Barrie and the Town of Innisfil, and recommends the following:

(1) That the committee hold public hearings in the Simcoe county area on Thursday, November 5, 2009.

(2) That the committee clerk, with the authorization of the Chair, post information regarding the committee's business for one day in the following publications: Barrie Advance, Barrie Examiner, Orillia Packet and Times, Orillia Today, Collingwood Enterprise, Innisfil Examiner, Innisfil Scope, Midland/Penetanguishene Mirror, Midland Free Press, and Wasaga Sun.

(3) That the committee clerk, with the authorization of the Chair, post information regarding the committee's business on the Ontario parliamentary channel and the committee's website.

(4) That groups be offered 15 minutes and individuals be offered 10 minutes in which to make a presentation.

(5) That interested people who wish to be considered to make an oral presentation on Bill 196 should contact the committee clerk by 5 p.m., Thursday, October 29, 2009.

(6) That if all groups can be scheduled, the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties.

(7) That if all groups cannot be scheduled, each of the subcommittee members provide the committee clerk with a prioritized list of names of witnesses they would like to hear from by 12 noon, Friday, October 30, 2009; and that these witnesses must be selected from the list distributed by the committee clerk to the subcommittee members.

(8) That the deadline for written submissions be 5 p.m., Thursday, November 5, 2009.

(9) That the research officer provide the committee with the Simcoe county growth plan.

(10) That the administrative deadline for filing amendments be 12 noon, Thursday, November 12, 2009.

(11) That the committee meet for clause-by-clause consideration on Monday, November 16, 2009.

(12) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Is there any debate? Do I have a motion to adopt? Mr. Dunlop.

Mr. Garfield Dunlop: So moved.

The Chair (Mr. Lorenzo Berardinetti): All those in favour? Opposed? Carried.

Our first deputation is here—

Mr. Garfield Dunlop: Mr. Chair, could I? I think Mr. Zimmer had some remarks as well right now, or is it after?

I was just going to say, ladies and gentlemen, members of the committee, I'd like to welcome you to the most beautiful part of the province of Ontario, the county of Simcoe. You're in the Simcoe County Museum, certainly one of the jewels of the county of Simcoe, which sits on 325 acres. We don't really cramp it in among buildings. On top of that, the county of Simcoe took a leading role in green space many decades ago, and today, the county of Simcoe, to my colleagues here, has over 31,000 acres of forested land. I believe it's more than all the other counties in the province put together. So we're all very proud of that.

But to the general public here today, I'd like to welcome my colleagues and introduce them. First of all, David Zimmer is from the beautiful community of Willowdale, the riding of Willowdale; beside David is Ms. Liz Sandals from the riding of Guelph; Lou Rinaldi, who is the MPP for the riding of Northumberland—Quinte West; Rick Johnson, next to Lou, is from Haliburton—Kawartha Lakes—Brock; next to Rick is Bas Balkissoon from Scarborough—Rouge River; our chair is Lorenzo Berardinetti from Scarborough Southwest. I'm Garfield Dunlop the MPP for Simcoe North—a lot of you know me. We have Michael Prue, from the New Democratic Party, from Beaches—East York, and my colleague from

south of us, Julia Munro from York-Simcoe. I want to welcome all of my colleagues to the beautiful county of Simcoe and I hope these deliberations go well today. And welcome, everyone else, as well.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): Mr. Zimmer?

Mr. David Zimmer: I just wanted to thank the community up here in Simcoe. I've been here since 9 o'clock with some of my colleagues. We've been wandering around the museum and it really is just a first-class, informative site. I have, from time to time, driven by on the highway here going farther north. The next time I drive by I'm going to arrange to stop by with my family and take them through. This is really worth seeing. It's a lovely facility. So thank you to the community, and to you, Garfield, for getting us into this site.

Mr. Garfield Dunlop: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you.

BARRIE-INNISFIL BOUNDARY ADJUSTMENT ACT, 2009

LOI DE 2009 SUR LA MODIFICATION DES LIMITES TERRITORIALES ENTRE BARRIE ET INNISFIL

Consideration of Bill 196, An Act respecting the adjustment of the boundary between the City of Barrie and the Town of Innisfil / Projet de loi 196, Loi concernant la modification des limites territoriales entre la cité de Barrie et la ville d'Innisfil.

CHARLENE VANDERPOST

The Chair (Mr. Lorenzo Berardinetti): We will begin our presentations. We have a number of them scheduled for this morning, right up until early this afternoon. We're having 10 minutes put aside for individuals and 15 minutes for groups. That was an agreement made during subcommittee deliberations.

Our first deputation for this morning is an individual, Charlene Vanderpost. If you would like to come forward to the table, you can pick any of the microphones.

Ms. Charlene Vanderpost: Perfect.

The Chair (Mr. Lorenzo Berardinetti): Good morning and welcome. There's water there for you as well. Again, there are 10 minutes. Any time that's not used up during your presentation will be split among the three parties to ask you any particular questions that we may have.

Ms. Charlene Vanderpost: Okay. Good morning. My name is Charlene Vanderpost. Our home is located at 7750 County Road 27, Lot 1, Concession 10 in Innisfil township. We have lived at this residence for more than 20 years. At this time, I'm petitioning to have our home become a permanent part of Essa township.

Currently, our home falls in a grey area in regard to elections and emergency vehicles including fire, police and ambulance. I'm fully aware that these are municipal issues; however, I feel that I've found a viable solution for an unusual situation.

In regards to attachment 1, you will see the aerial view of our home. The gravel laneway behind our home is the old town line, which is the distinct boundary line separating the two townships of Innisfil and Essa.

As it currently stands, all of Innisfil is on the east side of County Road 27 while our property is on the west side of County Road 27. Even if we become Barrie, our home will still be the exception to the rule. Barrie will be on the east side and we'll be on the west side.

It makes complete sense to allow our request to have our home become part of Essa township. This would put all of Essa township on the west side of County Road 27—clearly a very simple solution to a complicated problem.

Most people don't have—I only brought 25 copies. This is 27 and this is our house. As you can see, it's in the grey area; a little island surrounded by county land that we're talking about. Right there in the centre—that's our home. It's very confusing to explain where we are, so it's easier to show.

1010

Right now, various agencies, such as the departments named above and recreation facilities, currently assume that we're already in Essa township because of where we sit with our house.

If you put yourself into my shoes, I'm sure that you would feel much the same way if your family was being robbed or there was another policing issue and phoning 911 would not assure a speedy response for assistance.

I have previously approached the Essa township government and have their full support in becoming an Essa township resident, indicated in attachment number 2. I have also enclosed a copy of my original letter, as attachment number 3, to the minister, Jim Watson.

In closing, I'd like to also say, on behalf of Innisfil residents, that we really weren't given sufficient time to get out there and make the public aware that this was actually taking place. Maybe in the future you guys can put stuff on the radio. Everybody listens to the radio; not a lot of people get the paper—or it's in our ditches because everything gets thrown away. I'm very disappointed to see that there are not a lot more residents here in support of this. It's for them as well.

So thank you for your time and consideration. I'm sure that once you've gone through the opportunity to read all my documentation, you will do the right thing where my property is concerned.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much. That leaves about two minutes per party to ask any kind of questions. Perhaps we'll start with the Liberal Party. Any questions? Mr. Rinaldi.

Mr. Lou Rinaldi: Thank you. I don't have a lot of questions. Thank you for the presentation. It's certainly something that—that's what we're here for today.

Ms. Charlene Vanderpost: It's easier to show than to try to explain. I know it's a municipal problem—where it comes—but when you really look at the aerial view and you see our little house surrounded by county land and roads, it kind of makes you wonder how we even got there, but that's beside the point.

Mr. Lou Rinaldi: Can you maybe indicate any other residences like yours that might be impacted—are impacted?

Ms. Charlene Vanderpost: Are there others like that in the community? I have no idea. I know that we have always been there and have always had problems in many different places. I can honestly say I've never voted for the right person in my riding.

Mr. Lou Rinaldi: Oops.

Ms. Charlene Vanderpost: We can talk to that later.

Mr. Lou Rinaldi: Thank you very much for your presentation.

The Chair (Mr. Lorenzo Berardinetti): We'll move on to the Conservatives. Ms. Munro?

Mrs. Julia Munro: Thank you for pointing out one of the things that happens when there is a lot of government in layers and things like that.

My question to you is very simple. You mentioned that you had the support of Essa township in your documentation. I just wondered whether or not there had been any indication given from Essa in terms of any difficulties that they could foresee in being able to include you in Essa township.

Ms. Charlene Vanderpost: No. When I talked to Mr. Galloway and Mr. Guergis, there were no issues whatsoever. The road behind us is the old 131, the old town line, so basically it's a gravel/dirt road for one car, and there are no issues tying us in. That would actually make everything go much more smoothly with all the other emergency vehicles in response to us—and not just myself, but other homes too. We've watched fire departments go flying past our home looking for somebody and, all of a sudden, there's a whole bunch of commotion and they're going a totally different way.

Because it's a small community, in the village of Thornton we talk about different things and have noticed that there are quite a few people who are affected by this house in a not-so-good way—if they're waiting for an ambulance or their house is burning down; you know?

Mrs. Julia Munro: Absolutely. Thank you very much for bringing it to the attention of the committee.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Prue?

Mr. Michael Prue: Yes. You wrote a letter—it would be nearly two months ago—to the Minister of Municipal Affairs and Housing. Have you had a response?

Ms. Charlene Vanderpost: Yes, I did.

Mr. Michael Prue: What did he say?

Ms. Charlene Vanderpost: He said that it was a municipal problem and that Bill 196 is going to go through. I felt very insulted by his letter when he sent it to me because he didn't look into the actual photograph

and consider everything. He just looked at one thing and narrow-mindedly—

Mr. Michael Prue: There is a municipal boundary change being effected here. What you're simply asking is that the line be drawn straight.

Ms. Charlene Vanderpost: No.

Mr. Michael Prue: No?

Ms. Charlene Vanderpost: No. Because 27, right now—

Mr. Michael Prue: I can see 27, yes.

Ms. Charlene Vanderpost: —comes out as a complete stop, and then it goes in front of our house again.

Mr. Michael Prue: Yes.

Ms. Charlene Vanderpost: So it's like a Y intersection—

Mr. Michael Prue: Yes, I can see that.

Ms. Charlene Vanderpost: —and we're on the southwest corner.

Mr. Michael Prue: What you're asking, though, is just that—

Ms. Charlene Vanderpost: —a boundary change be made.

Mr. Michael Prue: That he simply make a slight variation of the boundary change in order to make things easier for you, the county of Essa, perhaps Innisfil, perhaps the city of Barrie—everybody. And he just says, what? "The thing's going through and I don't care about your situation"?

Ms. Charlene Vanderpost: That's more or less what I got from it, that I was supposed to deal with the municipality on it. That's why I've been working closely with Essa township, Simcoe county, as well as Innisfil. They've given me great support in telling me what I should do, where I should be sending the letters and everything.

Mr. Michael Prue: Thank you.

Ms. Charlene Vanderpost: I do have another letter going back to Mr. Jim Watson after it's all said and done, voicing my opinion.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation.

TOWN OF INNISFIL

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next presentation. It's the town of Innisfil. I have Brent Duguid and Quinto Annibale listed.

Mr. Michael Prue: While they're sitting down, Mr. Chair, can you please tell me why, with all the bother the Ontario government goes through to tell people how good and clean our water is, we have bottled water from the United States sitting on our tables? I really do have some difficulty—

The Chair (Mr. Lorenzo Berardinetti): The committee clerk is going to speak to you about that.

Good morning and welcome. If you could please identify yourselves. Hansard is present today, taking

notes on everything here—so the names of the individuals. You have 15 minutes to present.

Mr. Quinto Annibale: My name is Quinto Annibale. I'm with the law firm Loopstra Nixon and I am counsel for the town of Innisfil. To my immediate right is Mayor Brian Jackson and to his right is Deputy Mayor Gord Wauchope, and in the front row are Councillor Bill Van Berkel and the CAO, Dave Weldon, all from the town of Innisfil.

Good morning, Mr. Chair and members of the committee. Thank you for the opportunity to speak to you. In the next 12 or so minutes, I'd like to make a submission on behalf of the town of Innisfil that will cover five areas: The first is a brief discussion of the history of annexations and the negotiations that have been ongoing between the town of Innisfil and the city of Barrie. The second I'd like to speak about is the financial implications that the town of Innisfil feels will fall out of Bill 196 if it's enacted by the Legislature, and to make a case for compensation to be paid to the town of Innisfil. The third is, I'd like to briefly refer to some other annexation-amalgamation agreements that have been carried out in the province of Ontario and compare them to the situation that Bill 196 puts us in. The fourth is that I'd like to suggest some alternatives to direct compensation if the committee and the Legislature determine that compensation ought not to be paid to the town of Innisfil. And then fifthly, I'd like to deal with some minor technical amendments to Bill 196, two sets of amendments—one which I don't think is controversial and the other I think is resisted by at least the city of Barrie.

To begin with a brief history, Mr. Chair and members of the committee, as you probably know, the city of Barrie has on numerous occasions annexed lands in the town of Innisfil for growth purposes, and over the years the city of Barrie has taken thousands of acres of land from Innisfil to accommodate its continuing desire to expand beyond its boundaries as opposed to the more efficient intensification of the municipality within its own boundaries. If the city of Barrie continues this march south, the town will no longer exist or it will cease to be economically viable. It's the position of the town of Innisfil that something must be done to stop this continued expansion. So as an opening statement, we request that the Legislature amend Bill 196 to expressly provide for no further encroachment into Innisfil.

Recently, as you also know, the town attempted to negotiate an arrangement that would see the city of Barrie extend water and sewer services south to its city limits, to businesses located along Highway 400 and Innisfil Beach Road. In exchange for such services, the city pursued land from Innisfil in order to increase residential and industrial growth. Negotiations were carried on between the parties, but there failed to be an agreement that resulted from those discussions.

1020

I've seen reported in the media, and I've heard in the Legislature itself, a suggestion that perhaps Innisfil was

intransigent in those discussions. I'm appearing here to tell you, Mr. Chair and members of the committee, that that suggestion is wholly inaccurate. It is misconceived. Innisfil was not intransigent. In fact, Innisfil negotiated in good faith.

The fact of the matter is that Innisfil and Barrie actually agreed on the new boundary but Innisfil sought some conditions, which it felt were fair, to accompany the transfer of land, not the least of which was compensation and services to the town of Innisfil. It's those conditions that were rejected by the city of Barrie. There was never any dispute—at least early on in the discussions—about the amount of land that ought to be transferred, and those discussions took place with the assistance of the Office of the Provincial Development Facilitator.

In March 2009, the minister confirmed in a letter to all parties that the government supports a local solution. We believe that the constituents of Innisfil and Barrie prefer that their local elected representatives resolve the matter through a local solution. If you look at the submission that I've given to the committee clerk, you'll find, in appendix A, a copy of that letter from the minister.

With the introduction of Bill 196, it's the position of the town of Innisfil that the minister rejected a locally developed solution that protects the interests of Innisfil residents. The question that Innisfil has is, why has the minister imposed a solution on Innisfil without providing any financial compensation to the residents of Innisfil?

In arguing for a further boundary expansion, the city cited the need for more industrial land as one of the rationales that it gave for expanding into Innisfil. You may know, or you may not, that just last week the city of Barrie initiated a process to rezone some lands called the Bryne Drive link in the city of Barrie from industrial to commercial, which is wholly inconsistent with their position that they need more industrial land in the town of Innisfil.

Why does Barrie need to annex land from Innisfil, supposedly for industrial purposes, if the city doesn't think that they need industrial-zoned land that they already have? I pose that question to the committee.

The second heading I'd like to discuss is the financial implications that the town of Innisfil feels fall out of Bill 196, and to make a case for compensation.

The first reading version of the bill, in the current form, removed any incentive for Barrie to negotiate. Why would they? When the bill was introduced, the land transfer was a fait accompli. The province, through the municipal affairs staff who have been sitting in on the transition discussions between the city of Barrie, the town of Innisfil and the county of Simcoe, has consistently said that the province is not prepared to financially assist the town in mitigating the negative financial impacts on the residents of Innisfil.

It's the position of the town of Innisfil that this position is unconscionable. How can the province appear to say, "Here's the new boundary that we're imposing, and we don't care if there are negative financial impacts

that result from it"? The fact of the matter is that the simple act of drawing a new boundary will, in and of itself, cause an increase in property taxes for the residents of Innisfil. This applies to those lands that will become part of Barrie, as well as those that remain within Innisfil after January 1.

Barrie has the ability to mitigate that tax increase, and we believe Barrie will—they've told us they will mitigate that tax increase for the new residents of the city of Barrie. But if Bill 196 is approved, what you've done is taken away Innisfil's ability to mitigate the impact on its own residents of the tax increases, which I'll tell you about in a second. So Bill 196, in our view, is deficient because there are no means for Innisfil to mitigate the tax increase impact on its own residents.

On that point, the transfer of the annexed lands from Innisfil to Barrie will result in a negative fiscal impact to the town of Innisfil. It will result in higher taxes for the remaining residents of the town.

If you look at tab B of my presentation, you'll see a full analysis of the negative impacts, and I'd just like to gloss over them, if I may.

There are four ways in which residents of Innisfil will be affected. One is, there will be a tax revenue loss. Innisfil will lose over \$80 million in tax assessment, which equates to 2.5% of Innisfil's current assessment base. That will result in a net revenue loss of \$419,000. For a municipality the size of Innisfil, that is significant; it's 2% of its tax revenues.

There will be a fiscal impact on debt-servicing ability for the town of Innisfil. The town has undertaken three major infrastructure initiatives recently: the new town hall, the Innisfil Recreation Complex and the Cookstown library. These projects are complete but they're not yet debentured, so the full impact is not yet felt on the residents of Innisfil. The lands that are being taken away and given to Barrie would have contributed \$30,000 per year towards the servicing of that debt, or almost 2% of the cost of servicing the debt. That contribution, that shortfall will have to be made up by the remaining residents of Innisfil over the next 20 years. The town's position is that it ought to be compensated for that shortfall: \$30,000 for a period of 20 years.

The third financial impact is future growth-related capital costs. The 2,300 hectares that are being transferred to Barrie will no doubt be developed; Barrie has stated that position. There will be an impact on the residents of Innisfil in that the development that goes into those 2,300 hectares will use Innisfil roads, will use Innisfil services, will use Innisfil infrastructure. There will be an impact, and Innisfil has no way to recover that under the Development Charges Act; Barrie does. So Innisfil requests that the Legislature amend Bill 196 to take this into account and provide compensation to Innisfil for that financial loss.

Finally, the last impact that we feel Innisfil will feel is the loss of development opportunity, the future assessment that the lands that are being transferred would have generated in tax revenue for the residents of the town of

Innisfil. Our consultants have estimated this loss at about \$50 million, so it's not an insignificant amount.

The third heading I'd like to address is other financial compensation agreements throughout the province. There are three that we're aware of and members of the committee will be aware of. Granted, they were voluntary agreements—we recognize that—but the end result was that the municipality that had land taken away from it, albeit voluntarily, received compensation: the town of Tecumseh, the town of Rideau Lakes and the united counties of Leeds and Grenville to the town of Smiths Falls, and lands transferred in the township of Blandford-Blenheim to the city of Woodstock. Those were in 2003, 2004 and 2005.

In the case of the Blenheim compensation agreement, the compensation paid to the city of Woodstock was a minimum of 12% and a maximum of 24% of the tax rate. So the questions that the town has to this committee and to the Legislature are, why is it that Bill 196 does not compensate the residents of Innisfil in the same way—and that compensation can come either from the province or from the city of Barrie; we don't care—and why are the residents of Innisfil not being treated equally, the same way the residents in these three municipalities were treated?

The fourth item I'd like to address is alternatives to direct financial compensation. Again, it's discussed at length in the brief. I won't go through it in detail because I'm limited in time, but if it's the will of the Legislature not to give compensation to Innisfil, then in the alternative, Innisfil is asking for three things.

First of all, Innisfil requests the Minister of Energy and Infrastructure to amend the growth plan for Simcoe county to designate Innisfil Heights as an economic district, which the vision document that the minister has put out there does suggest. But we'd like that to provide for the expansion of Innisfil Heights in the future and we'd like the Ministry of Municipal Affairs to withdraw its objection to the town's official plan amendment no. 1.

The second thing the town asks in the alternative to compensation is that the town of Alcona, which is a community that will have a population of about 25,000 people under the current planning approvals and will be the sixth-largest urban area in Simcoe county, within Innisfil be given an urban node designation within the growth plan. At the current time, the vision document does not contemplate an urban node designation for Alcona.

The third thing that the town asks for by way of alternative compensation is assistance with sewer and water servicing for both Innisfil Heights and Alcona. The vision document does make mention that the amendment to the growth plan will discuss servicing, but we'd like that clarified and we'd like some dollars attached to it as well. So those are the three alternatives.

1030

The last thing I'd like to talk about—and I'm just wrapping up, Mr. Chair; I know I'm pressed for time—is what I'd call the minor technical amendments to schedule

1 of Bill 196. Schedule 1, you'll know, is the legal description that sets out the boundary of the lands to be annexed. The town's asking for two changes to that. I'll deal with what I think is the non-controversial one first.

The bill sets out as the limits of the annexed area the midpoint of road allowances all the way around, and what that would result in is shared jurisdiction over the roads. We have had discussions with both Simcoe and Barrie, and I believe, although you'll hear today for certain, that there's agreement between the parties to take that boundary either to one side or the other, so that certain roads fall within the jurisdiction of one municipality or the other. I don't think that's controversial. In my brief, you'll see some description changes that we're proposing.

The second one—and the very last point, Mr. Chair. I apologize for going slightly over. The very last one is the Doral Business Park. If you turn to tab J in my submission, you'll see a map with a storm pond outlined in red, and below it you will see the Doral Business Park. It's this document here, this map here—aerial. It's the very last document in the book. So the red is a storm pond. Bill 196 proposes to put the red into the city of Barrie. It's in the town of Innisfil now. The lands to the south, which will remain in the town of Innisfil and which the storm pond services, are the Doral Business Park. So the bill is actually proposing—it's quite ludicrous—to take that storm pond, put it into Barrie and make it subject to Barrie's bylaws, and yet it services a business park within the town of Innisfil. It's crazy. The town of Innisfil does not want city of Barrie bylaws applying to its storm pond. It services development in Innisfil for development charge purposes, for Lake Simcoe protection purposes, and it should remain within Innisfil's jurisdiction.

Those are my submissions. The mayor and deputy mayor are available to answer questions, as well as me.

The Chair (Mr. Lorenzo Berardinetti): Unfortunately, the 15 minutes—I'm going by this clock here, and you were almost exactly 15 minutes.

Mr. Quinto Annibale: Excellent.

The Chair (Mr. Lorenzo Berardinetti): So there's no time left for questions, but you had a very thorough presentation. We thank you for your presentation, and the mayor, the deputy mayor and councillors for coming here today. We will certainly take those matters into consideration.

EAST MORATORIUM LANDOWNERS' GROUP

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our 10:30 deputation. It's the East Moratorium Landowners' Group. I have here Don Pratt and Jaime Shapiro. Good morning, and welcome.

Mr. Don Pratt: Good morning.

Mr. Jaime Shapiro: I'm Jaime Shapiro and on my right is Don Pratt.

The Chair (Mr. Lorenzo Berardinetti): Thank you.

Mr. Jaime Shapiro: We represent a landowners' group known as the East Moratorium Landowners' Group. We made a written submission as well through the clerk in advance of today, of which I trust copies have been shared with the committee members, which goes into more detail on our positions. I'm going to make a few remarks first and then leave time for Don after I'm done.

The East Moratorium Landowners' Group includes long-time area residents, investors, land developers and home builders. As Innisfil property owners, we collectively own approximately 50% of the lands east of Huronia Road proposed to be annexed to the city of Barrie under Bill 196. Our group was formed to raise awareness about the serious threat posed by the Barrie-Innisfil boundary dispute to the future health and prosperity of the Simcoe region. We wish to express our strong support for Bill 196 as a critically needed response by the province to a clear call for action on this file.

The boundary impasse and resulting land squeeze continue to impact the local economy—and the land squeeze I'm referring to is in the city of Barrie—to undermine the objectives of Places to Grow in the region as a whole, and to sow doubts about the city's viability as Simcoe's only urban growth centre. With no expansion room in Barrie, unrelenting growth pressures are driving development activity out to the land-rich towns and villages on Barrie's periphery because there's nowhere else for it to go, and that growth pressure is not going to go away. This is a sure recipe for rural sprawl, redundant infrastructure spending and increased environmental load. Left unchecked, these forces will also divert new investment and municipal revenue away from Barrie, just as it's investing millions in new servicing infrastructure, and it will transform the city into an overburdened, fiscally challenged service centre for its faster-growing, wealthier suburbs in that future scenario I've just depicted—sort of like Newark, New Jersey, in comparison to its wealthy surroundings in New Jersey, where the suburbanites come into the city to use its resources, services and infrastructure when they absolutely must, and then they go back to their homes and pay their taxes in the suburbs.

For the greater good of the Simcoe region—which I believe is something close to the county's motto, "For the greater good"—maintaining the status quo is simply not an option. With the long-hoped-for local solution having failed to materialize, despite many years of trying, provincial intervention is urgently required to steer the region back on course towards a Places to Grow future. Bill 196, if enacted, will resolve Barrie's severe land squeeze as the critical first step in this process, enabling the city to go forward as a live-work community and a thriving economic hub for the whole region. In addition, Bill 196 will bring much-needed certainty for growth planning and investment decisions across the Simcoe area.

We believe that the province has struck the right balance with Bill 196, providing Barrie with sufficient additional land supply but without significantly im-

pacting Innisfil's fiscal stability or territorial integrity. As the proposed expansion area is contiguous to Barrie's existing urban structure, it incorporates the lands best positioned to leverage transit and servicing infrastructure, to benefit from Barrie's urban services, and to meet the growth plans, policies and targets for intensification and density. In addition, these lands pose fewer environmental constraints overall than other alternative annexation areas that have been studied over the years—and there has been a lot of study, as many people in the room are aware of.

In summary, the East Moratorium Landowners' Group supports Bill 196 as a reasonable solution that will bring closure to a difficult issue. We believe Bill 196 provides a win-win for Barrie and for the entire region. It will allow people and jobs to be concentrated in the urban growth centre while minimizing the pressure for development on Simcoe's good agricultural lands and reducing the impacts on groundwater, wetlands and environmentally sensitive areas.

Looking ahead, with boundaries settled and growth allocations clarified, Simcoe area stakeholders will finally be able to move beyond political wrangling and get on with the key decisions to be made regarding the transportation and servicing strategies and infrastructure investments that are required to support smarter growth in this important region. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you—

Mr. Garfield Dunlop: Don's going to—

The Chair (Mr. Lorenzo Berardinetti): Go ahead. I'm sorry, sir.

Mr. Don Pratt: Thank you for allowing me to speak. I know this is a very important part of the process. I'm here today to speak also as part of the East Moratorium Landowners' Group, but also as a citizen of Simcoe county—I live in Midhurst—and also as a direct employer in Barrie, Innisfil and Simcoe county.

I was born and raised in Barrie, Ontario, as well as my parents, grandparents and great-grandparents, who were all born and raised in Barrie and also Simcoe county, so our family has long-term residence and business interest in this area.

I'm here to support Bill 196, and to start off, I'd like to commend Minister Watson, the Minister of Municipal Affairs; Minister Smitherman, who's the Minister of Energy and Infrastructure; and also our local MPP, Minister Carroll, for having a future vision to realize what an important piece of legislation this is. It is so necessary for the city of Barrie, the town of Innisfil and also the county of Simcoe.

Simcoe county has to have a strong and vibrant regional municipality like Barrie to keep Simcoe county as strong, alive and vibrant as it is. Over the last year, there has been so much discussion back and forth in the media, and also amongst the local politicians, as to the need of Barrie getting additional land, why it needs additional land, and whether the province is the right one to enforce this legislation.

1040

Being a local my whole life, I understand the necessity of Simcoe county having a strong municipality like Barrie to provide the necessary services that are regional in nature and best provided by the regional hub, Barrie. The most obvious example of this is the Royal Victoria Hospital and the new Simcoe-Muskoka cancer centre being built, which service the entire region, not just Barrie.

There are also a large number of regional businesses that locate in large municipalities that would not locate in outlying areas, and they provide jobs for the entire region. A recent example of this would be the new Bank of Montreal data centre, which would just not go into a small community but needs to go to a large urban centre, and provides employment opportunities for the entire area, not just Barrie. Another example is the GO train coming up to Barrie. Without Barrie being such a strong urban municipality, we would not have this GO train service, which is an excellent mass-transit opportunity to be enjoyed by everyone in the surrounding area.

I could go on and on, but I don't want to take up the committee's time with more obvious examples of the benefits of the many things that are enjoyed not just by Barrie or by the town of Innisfil, but also by Simcoe county.

It is critical for Barrie to remain the hub of the area and it cannot do this without the additional lands which are being provided in Bill 196. Barrie has been targeted as a growth centre in Places to Grow and the recently completed IGAP study. South Barrie is targeted to take much of the growth that is going to come to this area. I agree with and realize that, under Places to Grow, intensification is crucial, and growing up also is crucial, but a municipality or a county cannot grow only by going up. There must be opportunities for all levels of industrial, commercial and residential expansion. In Places to Grow, we need to plan land use more appropriately than in the past, but we also need, in addition to intensifying lands, to have new employment and residential lands to work with.

I believe the province has acted as necessary to provide Barrie with sufficient additional land to accommodate this future growth for the next 25 years, and it will still not impact the fiscal future of the town of Innisfil or Simcoe county. Almost all the lands being added to Barrie are part of the moratorium lands that were set aside over 30 years ago to provide Barrie with additional space in the future.

Bill 196 provides a solution for all three levels of government, being the province, the county and the municipalities. It will allow people and jobs to be located in the hub and 400 corridor, with its urban growth to be enjoyed by all. In the future, all three stakeholders will be able to provide transportation, service infrastructure and employment strategies required for smart growth in the entire region.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That leaves about four minutes, about a minute or so per

party, or a minute and a half. We'll start with the Conservatives. Ms. Munro?

Mrs. Julia Munro: Thank you for joining us here today. In the first presentation you referenced the fact that you believe this was a win-win. Could you explain how it's a win-win for Innisfil?

Mr. Jaime Shapiro: Innisfil is part of Simcoe county and the broader Simcoe region. I think this really is what makes sense regionally, and that's why it is raised up to the provincial level and why the government of Ontario has been brought in, because municipal boundaries are getting in the way of rational planning and decision-making.

Everybody in the region, to answer your question, will benefit if we follow what was set out in Places to Grow, if we focus growth and concentrate it in compact urban forms and complete communities in the city of Barrie, as opposed to fragmenting it in the countryside and rural areas and putting pressure on agricultural lands, transforming villages into something that won't be recognized, where people still have to get in their cars and where there are no sewers and no transit. It just doesn't make sense for anybody in the region to push the growth out to the periphery.

Mrs. Julia Munro: I have a further question: You refer to the city of Barrie as a regional hub. In the answer you just gave us, you referred to it as a region as opposed to Innisfil particularly. But I was under the understanding that Barrie is a separated city, so that would mean that there is no immediate benefit in terms of municipal taxes or anything like that for the rest of the residents of Simcoe county. Is that your understanding?

Mr. Jaime Shapiro: I'm not sure I understood the question. No immediate tax benefits?

Mrs. Julia Munro: Barrie is a separated city. It has the ability, then, to have its own bylaws and its own tax system. So when you refer to the regional leadership that Barrie might show, in fact that doesn't extend to the region in any kind of fiscal way.

Mr. Jaime Shapiro: I believe it does in the sense that Barrie, as Mr. Pratt mentioned, is providing hospitals, arenas and all sorts of common infrastructure that's not just used by the citizens of Barrie. They're borrowing millions of dollars to upgrade roads, water treatment, sewers, culture and all these sorts of common amenities that will benefit citizens inside the boundary of Barrie and outside as well.

I think everybody would agree that growth should pay for itself, and if Barrie is bearing the costs for investing in all this infrastructure it should have the ability, through development charges, tax revenues and other sources, to meet the burden that it's taking on already, before this bill becomes law, in anticipation of supporting this growth in the area.

The Chair (Mr. Lorenzo Berardinetti): I have to interject here, sorry, because of the time.

Mrs. Julia Munro: Okay.

The Chair (Mr. Lorenzo Berardinetti): I do apologize. I want to let the other parties have a chance. Mr. Prue?

Mr. Michael Prue: The very first line of your executive summary says that you are "long-time area residents, investors, land developers and home builders who come together" for this purpose. Have you not been able to make a deal as good with the town of Innisfil as you hope to make with Barrie? Is that why you're here? The land's in identically the same place.

Mr. Jaime Shapiro: We're not making a deal with anybody. If there was no boundary there, then I think rational growth planning would have taken hold many years ago. Now we're all behind the eight-ball because of this logjam. All the studies that have been done over the years, at millions of dollars of taxpayers' expense, have all come back to the same point: Growth should be focused in this area south of Barrie, where there are sewers waiting to be extended, there's transit right there and there's a GO station. Absent the boundary issues, this is just the rational solution to where growth should go.

Mr. Michael Prue: Is the town of Innisfil or the county of Simcoe singularly unable to develop that same land? The land doesn't move one inch. The land's going to be identical. It's going to be right there. Are they unable to develop it and if so, is that why you're supporting it, because Barrie can?

Mr. Jaime Shapiro: You would have to ask the folks in Innisfil and Simcoe county, but as far as I'm familiar with all of their planning efforts and initiatives, official plans and such in the last few years, at no time has any of this area been targeted for future development or growth. It's not on the radar for these areas and yet the growth studies, provincially and regionally, all point to it as making sense.

The Chair (Mr. Lorenzo Berardinetti): I'm going to have to move on to the Liberals. Ms. Sandals?

Mrs. Liz Sandals: I suspect this is a quick question. There was reference made to the moratorium lands that were set aside 30 years ago, and for those of us who don't know the ins and outs of the local land use, could you explain what you meant by that?

Mr. Don Pratt: In the mid-1970s, at the time of the last annexation, there was an area called "moratorium lands" set up. I guess we could contemplate what it was for, but there was to be no development in that area in case Barrie wanted to have a future expansion. So those were the moratorium lands that were set up then. Not all, but most of these lands now are those moratorium lands.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That concludes our time. Thanks for your presentation.

ROBERT SAUNDERS

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next presenter, Mr. Robert Saunders. Good morning.

Mr. Robert Saunders: Good morning.

The Chair (Mr. Lorenzo Berardinetti): As an individual, you have 10 minutes. Any time that you don't use, we'll ask questions.

Mr. Robert Saunders: I don't plan to take a lot of time here, but as a resident of Innisfil for 69 years, I feel

that we should have a say in what's happening here. Yes, our elected officials are doing a great job at it, but I think that there are other points to be made.

My name is Robert Saunders. I live at 797 Lakelands Avenue. I've been a resident of Innisfil for a number of years. I've put down 69 years; I started as a cottager here and eventually moved up.

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I want to thank you for the opportunity to present my opinion and that of many other Innisfil residents. I am appalled at the injustice being served the residents of Innisfil by the provincial government and the city of Barrie regarding the theft of 5,666 acres of Innisfil prime land. I would also venture to say that this theft has cost the residents of Innisfil hundreds of thousands of dollars to defend our rightful ownership.

The process was instigated by Barrie and was supposed to be negotiated, including lands and services. My experience in negotiation is give-and-take by both parties. However, when one of the parties knows a settlement is going to be forced upon their opponent and on their terms, there is no negotiating left.

A provincial government cabinet minister has stated that without the land, Barrie's growth will be curtailed. The current government speaks with no credibility. If Barrie can no longer expand, then the expansion will be transferred into the surrounding municipalities.

My opinions are supported by the following: The city of Barrie is a poor planner and decision-maker. Barrie has used their land for shopping centres, big-box stores, fast food outlets and homes. I would go as far as to suggest that Barrie is the fast food capital of Ontario, which, according to government experts, impacts our hospital and health care systems. One just has to look at the Park Place project, a large parcel of land sitting fallow for over two years. The municipal government and the developer could not agree upon its use. As a result, Barrie has more shopping centres, and probably housing, but no industry planned for this space. Then we have the old agricultural grounds. No surprise—another shopping centre or big-box store.

Barrie's lack of decision cost them Georgian Downs, and a few years ago, Georgian Mall; however, as the local bully, they took Georgian Mall back.

Over the past number of years, Barrie has lost a number of large manufacturing jobs that have never been replaced, plus the vacancies in industrial units are extremely high. It has been reported that Barrie has created 9,000 new jobs. It would be interesting to note the percentage of these jobs that are part-time, fast food and home consultants that have previously lost their jobs and are starting new careers. I can attest to that as a businessman in Barrie, with the number of brochures that I get circulated to my door.

A city or municipality should have a plan to encourage a major or large industry that will generate small, satellite support industry. I can use Honda in Alliston, Markham and Mississauga as examples. The reason for my critique of this city is that it continually squanders its oppor-

tunities with its quest for a fast buck from residential housing and shopping centres, yet it is encouraged to expand into neighbouring municipalities.

Part of the provincial paper Places to Grow alludes to encouraging residents to work closer to home and to protect agriculture and green space. I would like an explanation of what the difference is between driving from Barrie to Innisfil or Innisfil to Barrie. It is also interesting to me that the boundaries set out in this paper designate Highway 88 as a southern boundary, and already plans are underway, including an overpass two miles south of the boundary line, which will delete hundreds of acres of fertile land. The provincial government is wavering.

It is quite obvious the residents of Innisfil are the victims of politics rather than what is fair. Innisfil is a planned community with state-of-the-art water and sewer facilities built for expansion. Land has been set aside for industry, a modern new community centre is complete, and agriculture is supported and promoted, including various town fairs. Innisfil has co-operated with its neighbours to the south to provide quality water services and was one of the first municipalities to participate in a combined police service, with Bradford. Innisfil is a community we are proud of and want to keep.

If this process cannot be resolved between Barrie and Innisfil, so be it. Provincial government, stay out. Let Barrie utilize its thousands of square feet of warehouse space sitting empty, expand its own land holdings north and west, and build more houses and fast food outlets. Those seem to be its capabilities.

The theft of Innisfil land is unacceptable and will create a financial hardship for the current and future generations. We, the residents of Innisfil, have chosen and pay to live here. We've invested in our community and yet Barrie is encroaching further into this area. I cannot rob a bank or cheat the government—I would be jailed—yet the city of Barrie and the provincial government are committing this crime. What is it going to cost them?

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation. There's about five minutes left, so we have about a minute and a half per party. We'll start with the NDP. Mr. Prue?

Mr. Michael Prue: You've given a compelling—and I might say devastating—analysis of your view on the city of Barrie. They have coveted and wanted this land for a long time. Do you feel that they are unable to develop it in a way that this government—I mean, I can't see any other reason for what we're doing here other than to give Barrie an opportunity to develop the land. I don't see any other rationale for this.

Mr. Robert Saunders: I made my comments on the city of Barrie to illustrate what I see in how the planning has gone in this community. They may think they've done a great job, but as a businessman in this community, I'm watching the number of empty warehouse spaces. They talk about keeping the agriculture land. They're going to take 5,660 some acres and they're going to build

houses on it. I have not seen any new factories. The prime opportunity was Park Place, where they could have put factories in there and put small businesses in there. Instead, what are we getting? We're going to have big-box stores in there. How about where the racetrack was? They're putting big-box stores in there. They're not planning properly, from my point of view.

The second thing I'd like to point out: My predecessors here point out about the hospital. Well, it's funny I pay taxes that pay for hospitals, and I've paid an extra \$900 a year in taxes so that that hospital can expand. So I think it's unfair that a city and a province can just come in and take the land without some compensation; not a little, it should be more than that. It's not an amalgamation, it's just coming in and stealing our land.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have to move on, then, to our next questioner. Mr. Rinaldi?

Mr. Lou Rinaldi: Thank you, Mr. Saunders, for your presentation this morning. Just a question, and I guess I'm just asking for your opinion. With growth pressures—and I think whichever way you want to describe it, whether it's been abused or not abused or not used right, there are some growth pressures that have been identified, not just from Barrie but from a number of studies that we've seen—how long do you think it should take for any government to assess future growth? Normally, to do it properly, it's long-term, so I guess I would ask you that although there are some empty spaces, from what you've presented—and I'm not here to argue whether they're there or not—what should it take a community to plan for their future?

Mr. Robert Saunders: Well, I would be appalled if any community is not planning for the future. It's important for all of us and all of our communities to plan, but there is a point where if I want to take your backyard to extend my plan, do I just take it or do I buy it from you? Do I compensate you for it?

I think that Barrie has not planned well. If I look at what's going to happen to this land they're going to take, I can tell you right now that 90% of it is probably going to be houses, if I look at what's happening going down Big Bay Point Road or any of those roads. It doesn't look like there's any planning there. Maybe the guy sitting at the planning board is drawing all these little houses there because he's going to get instant money and these developers are thinking the same way, but in the long run, what is it for the community? Is it good for the community? I've been told that there's going to be 80,000 new green jobs coming. What percentage is going to be in Barrie? If I look at Mississauga, they have planned well and they have built their business around transportation logistics, I would say—there's a lot. They have got Loblaws and everybody having their warehouses there. You've got Markham—high-tech. What's Barrie's claim to fame? That's what I'm challenging.

The Chair (Mr. Lorenzo Berardinetti): Okay, we've got to move on. Thank you for that. Mrs. Munro?

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Mrs. Julia Munro: Yes, I just wanted to ask you about two ideas that have been presented this morning with regard to Places to Grow. One of them is intensification as a principle—greater population densities and things like that. The second one is preservation of green space. Do you think this bill addresses either of those principles?

Mr. Robert Saunders: No.

Mrs. Julia Munro: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation, and thanks for coming out, Mr. Saunders.

CITY OF BARRIE

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next presenter, which is the city of Barrie—Mr. Leo Longo. If there are others that are going to be speaking or presenting, if they could identify themselves as well.

Mr. Leo Longo: Thank you, Mr. Chairman. My name's Leo Longo. I'm a solicitor at Aird and Berlis and counsel to the city of Barrie. With me, to my immediate left, is the city's CAO, Jon Babulic. Next to him is ward councillor Jeff Lehman, who was also chair of the boundary expansion working group. Next, to my right, is Rebecca James-Reid, the director of communications and intergovernmental affairs; and to her right, Richard Forward, general manager of infrastructure and culture. Thank you for having us.

We have filed a brief, which hopefully has been distributed to the committee, with attachments to the submission. There are six points we wish to cover off today, and hopefully respond to some of the things we've heard so far.

First of all, let's be clear as to what the act actually does propose. It suggests a boundary adjustment of adding 2,293 hectares of land from Innisfil to Barrie. These subject lands have about 200 properties, 500 residents, and included in the lands that are being subject to this adjustment, almost a third of it is environmental, natural areas which will continue to remain in that state.

As I note at the bottom of page 1 of our submission, about 8% of Innisfil's land is being affected by this adjustment. And if you turn to the second map, which is found at page 11 of the submission, you will see, highlighted in blue, the current boundary of Barrie; you will see, highlighted in red, the existing Innisfil boundary; and you will see, in yellow, the subject lands of Bill 196. So you can see, also from this graphic, that the lands that are proposed to go to the city do not include any employment areas or existing settlement areas that are currently in Innisfil. Those are all being respected and are not the subject of this bill.

I should note as well that the majority of the lands that are the subject of this bill are referred to as the "moratorium lands." I'll get into that momentarily. But if you turn to the preceding map on page 10, you will see,

outlined again in yellow, the lands that are subject to this legislation and you'll see, in red, the lands that since 1981 have been the subject of provincial legislation, saying that everything in those lands in red shall not be developed and are only to be used for agricultural or mineral resources purposes for the very purpose of one day forming part of the city of Barrie. I'll get into that momentarily.

What's also important to note as to what this act does, besides transferring some land, is that it also transfers some county and town properties to the city. Through negotiations with the county and the town, Barrie has agreed to transfer those properties back to the county and the town for \$1. So the county forest, which is included in the subject lands—the ownership will be transferred back to the county. The storm water pond, the Doral pond, that is owned by the town, will have its ownership transferred back to the town. The municipality, the city, will continue to have those within our jurisdiction, and our zoning and official plans would apply to them, but otherwise they will be still maintained in the ownership of the town.

On the issue of how these lands will develop, let me make it clear: Legislation for 27 years has said the lands can't develop. Now that these lands will be coming into the city, they come with the existing OP and zoning of Innisfil: agriculture. No development will occur until we go through a full Planning Act process of notification, public meetings and perhaps even OMB hearings. What's important to note is all of those development approvals will be subject to the provincial policy statement, the Places to Grow plan and the current Lake Simcoe plan as well. So the provincial policies that have now come out over the last three years—to protect the environment, to have focused growth in urban areas and the PPS—will all be adhered to before we can change the official plan or zoning bylaw on any of this land. And that's a protection, I would submit, to the public.

In response to the previous deputation, if there is any concern about how Barrie may have developed in the past, there are new rules that have been laid down which Barrie will have to follow. And I should say, his other example of Park Place is perhaps a poor one to choose, because Barrie actually opposed that development and went to the OMB, but unfortunately lost.

Every municipality can probably point to something that, if they had their druthers, they might like to see done a little differently. But Barrie is trying to be proactive and work with the province and indeed with the county and town in this regard. So that's what the act does.

Why is the boundary adjustment needed? Member Prue said he sees no other rationale except that Barrie wants to develop the lands. In the next three pages of our submission we attempt to address some of the rationale that we see. First and foremost, this adjustment is needed because the provincial government has said it's required in order to implement provincial land use and development policies. The PPS and growth plan call for optimizing the use of existing infrastructure, and Barrie is

currently expanding both its water treatment plant and its waste water plant to accommodate this growth. So we're accomplishing what the PPS says, which is to utilize the existing infrastructure for the greatest possible good.

The PPS and growth plan call for a strong and competitive economy. Barrie has had the highest per capita growth rate in Canada over the past five years and has created 9,000 new jobs. To continue that strong growth and achieve provincial objectives, we require the lands that are the subject of this application.

Provincial policy calls for the protection of the environment. We list at the bottom of page 2 the kind of very proactive things that Barrie is doing to protect the waterfront and to protect natural-state areas, which we think this committee would find commendable. The province has also come out with a draft Simcoe area strategic vision for growth. The city agrees with that and supports that proposal. It's necessary, in order to achieve these provincial policies, to have this boundary issue resolved and put in place.

And just to provide some other statistical facts, Barrie is the largest urban growth centre in the outer ring of the greater Golden Horseshoe and in fact is fifth, behind Toronto, Brampton, Mississauga and Markham. That's partly because of the city's ability to accommodate growth and deal with it, but it's more a reflection of achieving provincial government policy that this indeed has occurred.

The act is consistent with Barrie's vision for growth for our residents, which includes, as I indicate at the top of page 4, jobs that are close to home; diverse housing choices; a clean and healthy environment; full services, including water, waste water and transit—and I note this entire area of lands that we are being granted is unserved—first-class health care services; a balanced lifestyle with state-of-the-art recreation facilities and cultural opportunities; and a dynamic and vibrant city centre. The act will provide the entire area with more jobs, a cleaner Lake Simcoe and more sustainable development in our region. It will benefit both Barrie and Innisfil and, indeed, the county. The years of impasse have been costly to both Innisfil and Barrie, and our economy requires a speedy resolution to this issue.

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Why is the act required? This is the third point. Promoting and accommodating population, employment, and institutional and cultural growth in Barrie as a primary centre in the Simcoe county area, well served by transportation and public transit infrastructure, has been the policy of successive provincial governments over the past four decades. I go back to 1976 when the Simcoe-Georgian Area Task Force was adopted by the provincial government, saying that it was the province's policy that Barrie should grow to 125,000 by the year 2011. Back in 1976, people thought that was an unattainable goal. We are now at 140,000 people with two years to spare. It shows you that when the province says, "This is our policy to achieve something," the province can achieve it, and Barrie has indeed done that.

What's important to note about that policy and the annexation that Barrie went through in 1976 is that not only did the province give land to Barrie from Innisfil and Vespra, but it also put some aside, and those are the moratorium lands. While I strongly resent and think it's unfortunate that previous speakers have used the analogy of theft and crime, that Barrie is stealing this land—it's wrong to say that—if you want to keep the analogy going, it's not a theft. What it is is a withdrawal from the bank. Some 25 years ago the province put the moratorium lands in the bank and said, "Eventually these lands may come available for Barrie in the future." So this is a withdrawal of lands that the province set aside many years ago. It's not theft, and I strongly resent that characterization.

This committee should also be aware that while the province has suggested this act be passed, this was preceded by two years of intensive negotiation by the Office of the Provincial Development Facilitator, Allan Wells. He sat down with Innisfil, the county and Barrie to try to find the local solution, which everybody agrees would have been the appropriate thing. But after two years, a proposal was put on the table by the facilitator, having heard from everyone. Barrie was prepared to accept that solution; Innisfil was not.

I'd like to now turn to the issue of compensation. Mr. Annibale indicated why compensation should be granted. Let me indicate seven reasons why it should not.

(1) I've already talked about the history of Barrie boundaries and the fact that this has been a long-standing issue that the province has made plans for over the last 30 years. None of the examples he uses suggests otherwise.

(2) Provincial legislation specifically addresses these moratorium lands being set aside for Barrie.

(3) Simcoe county in 1990 and 1993 went through their own restructuring. In fact—I stand to be corrected—I think Innisfil benefited from the 1990-93 restructuring because the village of Cookstown was assumed and added to Innisfil. No compensation was paid in those situations. There's no history in this county of providing compensation for boundaries.

(4) The adjustment of boundary advances the provincial policy statement, and if any compensation ought to be payable, it ought not to fall on the shoulders of the residents of the city of Barrie.

The issue about development using these lands—yes, these people will drive on Innisfil roads and Innisfil residents will be driving on city roads. I've never heard Brampton and Mississauga fighting over who should pay collective development charges for each other because of the fact that they're next to each other—

The Chair (Mr. Lorenzo Berardinetti): Just to let you know, Mr. Longo, you have about one minute left.

Mr. Leo Longo: Thank you.

The final thing on compensation is that if Innisfil truly believed that compensation was important, they had two years through the OPDF facilitation to attempt to do that and they didn't. It was put on the table late and it wasn't pursued.

I'd like to turn to the issue of what Barrie would like to see changed in the act. We agree with Innisfil that schedule A to the act should be changed to rectify the road situation so that certain roads will be entirely under the ownership of the county, the town or the city. We've put the proper description in our materials. We concur with Innisfil and we concur with the county in urging this committee to make that change to the act.

Mr. Chairman, I apologize for taking all the time, but there's so much history involved in here and there's so much you'd like to put on the table. I should note that there are appendices to our report, which I would ask the committee members to carefully look at, that provide further background to this issue. I thank you for your attention.

The Chair (Mr. Lorenzo Berardinetti): Unfortunately there's no time left for questions. Thank you for your presentation and for your—

Mr. David Zimmer: Chair, I just want to—are we working on that clock? What clock are we working on?

The Chair (Mr. Lorenzo Berardinetti): What happened was, in fairness to everybody making a presentation here, what happened was there were a few interjections at the beginning—

Mr. David Zimmer: But just tell me what clock we're working from.

The Chair (Mr. Lorenzo Berardinetti): I'm keeping my time right here.

Mr. David Zimmer: Well, I prefer that we work from that clock so we all know where the time is.

The Chair (Mr. Lorenzo Berardinetti): That's difficult to do. I'm using a stopwatch here, actually.

Mr. Michael Prue: I think that's the prerogative of the Chair, to use his timer.

The Chair (Mr. Lorenzo Berardinetti): I'm following the same rules that we follow in the House, that the Speaker would follow. I'm trying to be fair, and what's happening is it takes time for some people to get ready, to come up and sit up here as well. There have been some cancellations too, so don't worry. You'll get your lunch.

The next person—

Mr. David Zimmer: Chair, it's not about my getting my lunch; it's about giving everybody the same time.

The Chair (Mr. Lorenzo Berardinetti): They are getting the same time. The problem is that some people need to sit down and I'm not counting that time, or when they come up to sit—

Mr. David Zimmer: All right. I appreciate that, but it's not about me getting my lunch. It's about giving everybody the same amount of time. Thank you.

The Chair (Mr. Lorenzo Berardinetti): And they have been, so I appreciate you not challenging that. Okay? Thank you.

TOWNSHIP OF ORO-MEDONTE

The Chair (Mr. Lorenzo Berardinetti): The next person is Harry Hughes, the mayor for the township of Oro-Medonte.

See, this takes a minute, now, for the person to sit down. I am not going to start the clock until they sit down, which is fair.

Good morning. Welcome.

Mr. Harry Hughes: Good morning. I also have joining me Councillor Mel Coutanche from Oro-Medonte and the director of our development services, Andria Leigh. Our submission this morning is very brief because we really want to emphasize three main areas. We'd like to thank you for the opportunity to speak on behalf of the township of Oro-Medonte in regards to Bill 196, the Barrie-Innisfil Boundary Adjustment Act.

The township of Oro-Medonte is a primarily rural municipality. We're located between the cities of Barrie and Orillia, along the northern shoreline of Lake Simcoe. Our population grows from 20,000 to about 25,000 in the summertime due to a seasonal increase in population.

The township right now is required to prepare the necessary amendments to its official plan in order to conform with provincial legislation—that's the provincial policy statement and the Places to Grow plan—and the county of Simcoe official plan. Currently, the made-in-Simcoe-county official plan has been before the province awaiting a decision since its adoption in 2008, which is almost a year now. Both the province and the county of Simcoe have clearly identified an employment node surrounding the Lake Simcoe Regional Airport, which is located in Oro-Medonte, signifying its importance for long-term employment opportunities and transportation infrastructure. The federal and provincial governments have also invested significantly in the airport by providing the infrastructure funding towards the co-ordinating of growth with infrastructure investment.

The township is supportive of these guiding principles and is here today to request that the decisions being made through Bill 196, which focus growth in the city of Barrie, should not be made at the expense of the ability of the municipalities within Simcoe county, including Oro-Medonte, to be in a position to develop, consistent with these guiding principles, in a sustainable manner.

It should be emphasized that the township of Oro-Medonte does not object in principle to Bill 196. We are here solely intending to provide comments regarding the implementation of Bill 196 and the effect on the surrounding municipalities, which include Oro-Medonte. It's clear there's a need to move forward with the bill, as further delays relating to the Barrie-Innisfil boundary continue to have an impact on the county of Simcoe in regard to its official plan and on the province's Simcoe Area: A Strategic Vision for Growth. With the current delays in finalizing the provincial growth plan for Simcoe county and the county of Simcoe official plan, there continue to be negative impacts on the local economy due to the continued uncertainty.

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The township would also like to raise the issue regarding the need to recognize the cumulative capacity of Lake Simcoe and how the populations allocated to Barrie and the surrounding municipalities within the

Lake Simcoe watershed relate to the Lake Simcoe Protection Act. Can Kempenfelt Bay accommodate the increased population, and can this development move forward without also incorporating significant infrastructure funding when Barrie's boundaries expand the pressures on promoting the development of a sustainable and compact community that enhances the well-being and quality of life that are important to the residents of Oro-Medonte but must also satisfy their goals for sustainability by diversifying our economic base through tourism, establishment of local jobs and appropriate development of full municipal services?

There's one key item that I'd really like to focus on, and that is the issue of health care. This key, essential sector requires detailed consideration to determine the impact Bill 196 will have on the already heavily over-taxed health care system. There's a need to recognize the relationship between the area's ability to attract and retain physicians to staff new health care facilities—the Royal Victoria Hospital is only one of those; there are others throughout the county. Special consideration must also be given to Simcoe county to maintain its current underserved status in order to be able to compete for doctors with the GTA. As you know, there is some discussion taking place on changing those underserved designations.

We ask that the decisions being made by the province regarding Bill 196 and the growth being directed to the city of Barrie not be short-sighted and should be made to permit other municipalities to achieve their goals of sustainable development, in alignment with the objectives outlined by the province through their provincial policies.

Right now, the townships of Oro-Medonte and Tay are currently partnering with Skyline International on the development of the Georgian Valley, and that's why Councillor Coutanche is here. That's the section that he represents within our municipality, which is composed of two major recreation-based developments intended to provide regional economic significance to north Simcoe.

Georgian Valley includes development at Horseshoe Valley, Oro-Medonte, Port McNicoll and Tay. The project is anticipated to create 9,000 direct and indirect jobs, and 1,300 ongoing operational jobs, and enhance the base of small and medium businesses in the community. The project allows Oro-Medonte to meet all of the planning objectives of the provincial policies of development of full services and provision for residential and non-residential development.

I would like to thank you for the opportunity to comment on the official plan, and for you to particularly understand that whatever happens to the boundaries within the city of Barrie, its population does have a significant impact on all the rest of Simcoe county, particularly being able to have sufficient numbers allocated for growth to be able to fulfill the goals that are maintained within our communities.

The Chair (Mr. Lorenzo Berardinetti): Thank you. You had 15 minutes, and you've used up six minutes of

that time. We've got about nine minutes left; three minutes per party. We'll start with the Liberal Party, Mr. Rinaldi.

Mr. Lou Rinaldi: Thank you very much for your presentation, Mayor Hughes. I guess I just want to clarify, and correct me if I'm wrong, or maybe you could emphasize—you indicated that you don't have specific objections to Bill 196, but having said that, you want to recognize some of the impacts it might have on your municipality or on others surrounding it. One of the things you mentioned was that the Lake Simcoe airport be included as an employment node. Did I get that right?

Mr. Harry Hughes: Yes.

Mr. Lou Rinaldi: So you're not against Bill 196 in general, but you do want some of those things recognized?

Mr. Harry Hughes: I think what we're stressing is the fact that we're not against Bill 196 in principle. What we are concerned about is the delay in the implementation of all the planning in Simcoe county, and Bill 196 is a key component of that.

It's also important that we keep in mind the entire county when we are dealing with the boundaries of Barrie and Innisfil, because there is an impact. The other aspect is that key to the boundary adjustments and the implementation is the need for infrastructure dollars, which is very significant. To change boundaries without incorporating the infrastructure dollars and looking at the entire county is something that we would not want to see happen.

Mr. Lou Rinaldi: Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much, Mayor Hughes, for attending.

I asked legislative research to put together the Simcoe county growth plan vision because it's hand in hand with this legislation. My concern is all the other municipalities in the county of Simcoe that are not getting enough growth and not being allocated enough growth under this plan.

Mr. Longo from the city of Barrie indicated that—I heard him say it; I hope it's in Hansard. He said that having this growth in the city of Barrie, there will be a cleaner Lake Simcoe. I can't, for the life of me, imagine how you add 70,000 people in a watershed and you end up with a cleaner Lake Simcoe. If you're going to depend on the Minister of the Environment and what I've seen happening with the Ministry of the Environment and some of their approvals, that's not going to happen.

So I have some real, grave concerns not with the overall plan to have Barrie grow with more property, but I don't think it should be at the expense of Midland, Penetanguishene, Oro-Medonte and Tay. There are major projects planned in these communities as well, and I don't think Barrie should get all the growth. I want to put that on the record clearly here today because I think it's important.

I know, Mayor Hughes, you had a number of discussions with the Lake Simcoe Region Conservation

Authority. I'm amazed they're not here making a presentation today. I can't believe they're not on the agenda. I mean, of all the things that we thought we planned around with the Lake Simcoe Protection Act, they were a key stakeholder. They were a key group to comment on it. Today, at this very, very important time of this legislation, where you're going to add 70,000 people to that watershed—because most of this land will go in housing; I think we've heard people say that before—we haven't got the Lake Simcoe Region Conservation Authority here to comment on it.

I don't really have a question to you, Mayor Hughes, other than that I appreciate the fact that you've indicated that, yes, we need land for Barrie to grow with, but the reality is that there are other areas of the county of Simcoe that can have growth as well.

And I don't like the idea—I think it was Mr. Shapiro who mentioned it a little earlier in his comments—that any growth outside the city of Barrie appeared to be fragmented. You know, we do have five other hospitals in the county of Simcoe. They're all excellent hospitals. RVH is a wonderful hospital; I agree 100%. But you know what? It's not just about Barrie here. We have other great parts of the county of Simcoe that have done well in the past and will do well in the future.

I look forward to amendments. I'm one person—I'm going to tell you right now, I think compensation is due here. There should be some form of compensation, and I will be prepared to make those amendments at the clause-by-clause when we get to that point.

Mr. Harry Hughes: I—

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on. They used up both three minutes there, so I'm going to have to move on to Mr. Prue. Sorry.

Mr. Michael Prue: You referred to many, many plans, and the province does have a lot of plans that either help or hinder growth around the Lake Simcoe area, depending on where you're at. In Oro-Medonte, are there plans that hinder growth?

Mr. Harry Hughes: I wouldn't say there are plans to hinder growth. There have always been plans in place to make sure that the growth is appropriate in relation to the environment and a number of other considerations. I think, if I can incorporate possibly what you're directing at, it's the fact that right now with the Lake Simcoe Protection Act, I wouldn't call it hindering it; I would call it directing growth appropriately.

My concern is, to pick up Mr. Dunlop's comments, if you're going to add—first of all, if you're going to implement the Lake Simcoe Protection Act, which we dearly hoped to see happen, the question of where the dollars are going to come from has never been answered, and those are substantial dollars. Anyone knows that if you're going to add a significant population with high density, particularly around Kempenfelt Bay, the only way you can do that and protect the environment is with significant infrastructure dollars on top of that. If all these infrastructure dollars are going to be directed at one

location for one purpose, then the rest of the county just cannot develop.

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Mr. Michael Prue: And I guess that's where I was trying to get at. I look at the maps that are provided by Simcoe county, I picked one up just outside—and thank you very much, Simcoe County Museum, for providing it—and it seems to me that at the northeast corner of Barrie, things just stop at Simcoe County Road. It doesn't look like there's much going on in Oro-Medonte on the other side. Has that ever been subject to a moratorium as well?

Mr. Harry Hughes: You're taking me back to a time in history. There had been some boundary adjustments in the past, but there was an agreement on where the boundaries would be established.

Mr. Michael Prue: Is there a potential moratorium for Oro-Medonte at some point, where Barrie may want to start going east?

Mr. Harry Hughes: I can't speak to a moratorium. All I can speak to is what happened during the last discussions when Barrie expanded and there was a decision that the boundaries would remain intact.

Mr. Michael Prue: So there's no future possibility that the voracious appetite, as I would put it, of Barrie to ever expand into surrounding agricultural land, as they have over generations now, will affect Oro-Medonte.

Mr. Harry Hughes: I guess my comment is that when we're talking about possibilities, anything is possible. But I would suggest that if you looked at those boundaries in a geographical layout, it would give you good reason as to why that would not be a good idea.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mayor Hughes, for your presentation today.

TOWNSHIP OF TAY

The Chair (Mr. Lorenzo Berardinetti): Members of the committee, our 11:25 deputation, Mr. Stan Wisner, has cancelled, so we'll move on to our 11:35 presentation, the township of Tay. If you would kindly identify your names and titles for the sake of Hansard, we'd appreciate that.

Mr. Scott Warnock: My name is Scott Warnock. I am the mayor of the township of Tay.

Ms. Mara Burton: I'm Mara Burton and I'm the director of planning and development for the township of Tay.

The Chair (Mr. Lorenzo Berardinetti): Welcome.

Mr. Scott Warnock: First of all, we would like to thank the standing committee for hearing our presentation. In light of time constraints, we are going to be brief and leave our submission with the committee in more detail.

The township of Tay supports the initiative of the province to guide development to be sustainable, protect the watersheds, revitalize downtowns, create a diverse economic base and co-ordinate growth with infrastructure. Tay township, Oro-Medonte, Midland, Penetan-

guishene, Tiny township, Georgian Bay township, Springwater township and the city of Orillia have all come together and created and adopted the Severn Sound sustainability plan.

This plan's framework is based on three pillars of sustainability, being environmental integrity and protection, community well-being, and economic prosperity. Through this plan these nine municipalities adopted the Brundtland commission's definition of sustainable development, being, "Development that meets the need of the present without compromising the ability of future generations to meet their own needs."

As a little background, Tay township has two communities that provide full municipal sewer and water, those being Port McNicoll and Victoria Harbour, located on the south shore of Georgian Bay. Port McNicoll has a population of approximately 2,300 persons. However, prior to the closing of the Cargill grain elevator and the Canadian Pacific rail and shipping port in the mid-1960s, the population was twice that size. The community had a grocery store, a pharmacy, a bank and a doctor's office. None of these services exist in the community today and the downtown has a high vacancy rate. The community of Victoria Harbour has a population of approximately 3,100 persons and has seen slow, steady growth over the past 20 years whereas Port McNicoll has declined. Port McNicoll needs to be given the opportunity to recover.

The former Canadian Pacific lands, a brownfield, has recently been bought by Skyline International Inc.—Mayor Hughes from Oro-Medonte mentioned that briefly in his presentation—and they intend to develop these lands along with Horseshoe Resort in the township of Oro-Medonte as the Georgian Valley, a tourism destination. We feel that this development will return Port McNicoll to its former position as a thriving community where residents can work and obtain their day-to-day needs locally.

The Georgian Valley project will help us meet our goals of sustainability by diversifying our economic base through tourism, providing local jobs within these communities on full municipal services.

The Georgian Valley project is anticipated to create 9,000 direct and indirect jobs and 1,300 jobs from ongoing operations, along with positive spinoffs for hundreds of new small and medium-sized businesses. The increased tourism economic spinoff is expected to add \$1.02 billion—that's "billion"—in GDP and \$430 million in additional tax revenue. This project is not only important to Tay and Oro-Medonte townships, but also to Simcoe county and the province of Ontario.

We are not here to object to Bill 196 on its own. However, to the degree that this legislation may accommodate growth for Barrie and Innisfil at the expense of other communities' ability to achieve their own goals of sustainability, including Port McNicoll within Tay township, we do object.

We are concerned that this bill facilitates the reallocation of growth that is identified in Simcoe Area: A Strategic Vision for Growth, that reduced the popu-

lation projection for Tay, which is already too low, from 11,300, as identified in the county official plan, to 10,750. Tay's 2006 census population was 9,748 persons. As diminutive as these numbers may seem, to a small community trying to stimulate their depressed local economy, these numbers do have a significant impact.

Like our definition of sustainable development, we ask that the decisions of the province with regard to the city of Barrie do not come at the expense of other communities' ability to achieve their goals of sustainability to diversify our economic base and revitalizing our community.

Thank you, Mr. Chairman, for your time this morning.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Mayor. That leaves about 10 minutes for questions. This time we'll start with the Conservatives. Are there any questions? Ms. Munro.

Mrs. Julia Munro: Thank you very much for giving us a picture of another part of Simcoe county.

Mr. Scott Warnock: You're more than welcome.

Mrs. Julia Munro: A question that I have comes from material that was provided to us earlier. That material suggested that one of the most compelling reasons for seeing the expansion of Barrie is the benefit that would accrue to Simcoe county as a whole.

It's my understanding that there is a legal difference between the relationship of the municipalities of Simcoe county and the separated city of Barrie. I just wondered if in that context you could explain to us how your community would stand to benefit from growth in Barrie.

Mr. Scott Warnock: I defer to my director of planning and development, if I can.

Ms. Mara Burton: Although we do have some people who commute to the city of Barrie for employment purposes, most of our employees probably receive employment from Midland and Penetang. We are also trying to provide employment jobs that have been lost over the past three decades within our local communities.

I don't see that we would necessarily directly benefit from an expansion to the city of Barrie at the expense of our own abilities to provide employment to our residents locally, without having to commute. It's a bit of a distance on a daily basis. Where we can provide that employment and goods and services locally, it's more of a benefit for us to have the ability to provide jobs locally.

Interjection.

Mrs. Julia Munro: Go ahead.

Mr. Garfield Dunlop: A quick question: To Mayor Warnock, you're the mayor of the township of Oro-Medonte and you're a member of the county of Simcoe council.

Mr. Scott Warnock: Yes.

Mr. Garfield Dunlop: Right—sorry, the township of Tay.

Mr. Scott Warnock: Thank you.

Mr. Garfield Dunlop: Yes, I should know; you're one of my mayors.

How much does the county of Simcoe contribute to hospital construction in our area? For example, Soldiers'—

Mr. Scott Warnock: Through the county of Simcoe?

Mr. Garfield Dunlop: Yes.

Mr. Scott Warnock: Three million dollars.

Mr. Garfield Dunlop: Three million dollars a year?

Mr. Scott Warnock: Three million dollars is budgeted. It has been on an ongoing basis. It's strictly for projects that have been approved by the provincial government.

Mr. Garfield Dunlop: Okay, so a project like the Royal Victoria Hospital in Barrie, with the new Cancer Care Ontario centre, which will help all of the county and Muskoka—the county of Simcoe is a partner in that project.

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Mr. Scott Warnock: Yes.

Mr. Garfield Dunlop: Okay, thank you.

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to the NDP. Mr. Prue?

Mr. Michael Prue: Your comments are peripheral to the main issue here, to be fair. What we're talking about is Barrie wanting to extend its border south into lands that were previously part of Innisfil township. You are quite far removed by distance and geography from what is happening here. Is there any consensus amongst the mayors and the political-municipal leaders in Simcoe county about what's happening here, or are you all just sort of standing back because it's "not in my backyard"?

Mr. Scott Warnock: Well, Mr. Prue, if I could, while we may be on the "periphery" of this issue, you are going to hear later on presentations from both the towns of Midland and Penetanguishene. If you consider Midland, Penetanguishene, Tay, Tiny—we are north Simcoe, and as the four mayors from north Simcoe, we have great concerns about the way the growth will be directed, because what's going to happen is, there is only so much growth that is going to be allocated to the county of Simcoe. Every piece, every one person who goes somewhere else has a negative impact on somebody. Where at the end of the day it may seem to be well distributed, there will be the haves and the have-nots through this process, and right now the township of Tay—I'm not speaking out of line—we're one of the have-nots. That's the plain and simple—we have made good, solid planning decisions; we have built sustainable communities, but that's only as far as we can go now. If we are to stay where we are, we will no longer be sustainable. So while we may be on the periphery, the decision that is made regarding Barrie-Innisfil will indeed have an impact on what the next 10, 15 or 20 years holds for my municipality.

Mr. Michael Prue: Okay, and that impact is because the province chooses to expand Barrie, in some cases at the expense of the other municipalities around it?

Mr. Scott Warnock: As I said, there are only so many people who are going to be allowed—and that's the word, "allowed"—to come to the county of Simcoe. The province is saying, "If you want to come to the county of Simcoe, we're going to tell you where you're going to live." I don't think that's fair. I think if someone wants to

come and live in my municipality or develop in my municipality, they should have the same right and the same option as anybody else in the county of Simcoe. Right now, we don't have that because our hands are tied.

The Chair (Mr. Lorenzo Berardinetti): Okay, we're going to have to move on.

Mr. Michael Prue: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Mr. Rinaldi?

Mr. Lou Rinaldi: Thank you, Your Worship, for being here today—and the same compelling argument that Mayor Hughes made before you.

When it comes to the growth legislation that the province has embarked on in the last few years, frankly, as a request in many cases—being a former mayor in the municipal realm—a lot of municipalities asked for this because there was no coherence across regions where development was happening.

As we know, fragmented growth is a cost to the residents. There's only one taxpayer; we all know that. We've all been in this business for a long time. Your concerns, to some extent, are valid. We're going through the same process in communities that I represent, although in a different part of the province. The statement that I will leave with you is, growth plans are reviewed every five years. I was part of the ministry when we first formed government that had a lot of consultation across the province; we've been working on a lot of different growth plans and so forth, because we know things could shift. I think good government of all types needs to look at a review process, and there is a review process. Every five years we're able to address those changes. I think we need to keep in mind, just as a statement, that we need to be cognizant because, I know in your municipality and in the municipalities that I represent, school buses cost money to go down a road to pick up one child. I know we tell people, as you mentioned, that you're deprived of those choices, but I think good planning from all groups needs to recognize that costs are going up and infrastructure dollars are probably getting less as we do that. I just leave that with you.

You make good points. I'm not so sure I agree with you 100%, but on a lot of them I do. As we grow, I think we need to recognize that we need to do some better planning than we maybe did in the past. In that, I speak of all governments, of all levels—past, present and future. Just as a comment.

Mr. Scott Warnock: Thank you. Can I—

Mr. Lou Rinaldi: Sure, if you'd like to respond.

Mr. Scott Warnock: Can we respond to that? Do I have time, Mr. Chairman?

The Chair (Mr. Lorenzo Berardinetti): There's a minute and a half left if you want to respond. It's up to you if you want to respond.

Ms. Mara Burton: Yes, I'd like to respond. We have public schools in each of our communities. We grow with the same intent as the province: not to sprawl, to do intensification and all of those good planning things. We've been doing that for a long time. We have not been

doing lots in the rural area for over 10 years now, so we feel that we've been doing some good planning, particularly in Port McNicoll. We have a need to fill the vacant buildings that we have in that community. We need to have some growth numbers in order to make that happen. We take some solace in knowing that the numbers will be reviewed every five years, but if we don't come here and tell you our needs, then we can't expect that there will be any changes.

Mr. Scott Warnock: And if I could, Mr. Chairman, we have always taken the position at the township—we did take comfort and solace in the fact that there would be a review every five years. We understand that. But we have to be at the table to make you aware of what our particular situation is, because a one-size-fits-all solution is no solution.

Mr. Lou Rinaldi: And that's why we're here today. We appreciate your input.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Mayor, for your time.

SIMCOE COUNTY HEAVY CONSTRUCTION ASSOCIATION

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next presentation. It's the Simcoe County Heavy Construction Association. Good morning and welcome. Could you kindly identify your names and titles for the sake of Hansard?

Mr. Roger Graham: Good morning. I'm Roger Graham, current president of the Simcoe County Heavy Construction Association. I am also a district manager with K.J. Beamish Construction—

The Chair (Mr. Lorenzo Berardinetti): Can you speak a bit louder, please? I'm sorry.

Mr. Roger Graham: —based here in Barrie, and with me today is Tony DiPede, the principal with North Rock Group and director of the sewer and watermain association.

The Chair (Mr. Lorenzo Berardinetti): Thanks for being here. You have 15 minutes.

Mr. Roger Graham: Hopefully we won't take all that. We didn't have time to prepare the 25 copies. We can get them to you after, but we hope to be very brief.

Mr. Tony DiPede: We wanted to be environmentally sensitive.

Mr. Roger Graham: We are here today in support of the Barrie-Innisfil act, Bill 196, and would like to note that we have the support of the Ontario Sewer and Watermain Construction Association—

The Chair (Mr. Lorenzo Berardinetti): A little bit louder. Sorry, I'm just having trouble hearing you. I do apologize.

Mr. Roger Graham: —on this important issue.

The Simcoe County Heavy Construction Association was established in 1999 to deal with construction issues that affect the construction industry as a whole. The Simcoe county construction association currently represents 14 member companies working around the Simcoe

area and employing approximately 300 workers. We are presently increasing our membership to include suppliers and associates in the area.

The Simcoe County Heavy Construction Association—it's a mouthful—is a member of the Ontario Sewer and Watermain Construction Association. Together, our goals and objectives include working with local municipalities and regional government to provide an industry perspective, ensuring a long-term plan for sustainable infrastructure in the region and conformity to provincial policy. This includes working with the municipalities and consulting engineers on fair tendering, contract conditions, construction specifications and best practices while ensuring technical support to consultants and municipalities for the best return on money via a team approach on all projects.

The Simcoe County Heavy Construction Association is a strong supporter of educational initiatives and is working with the Ontario Civil Construction Careers Institute, an organization that promotes our industry to young people in the secondary school system. As well, together with the Ontario Sewer and Watermain Construction Association, we made a substantial time and financial contribution toward Georgian College's new Centre for Sustainable Technologies at their Barrie campus, as well as providing significant scholarship opportunities in their engineering programs.

We are in support of the Barrie-Innisfil act, Bill 196, for many reasons. Governments are looking for ways to stimulate our economy to help the residents of Simcoe county and the rest of Canada come out of this economic downturn. The people of Simcoe county have always been proud of their heritage and continue to move forward, whether it be through snow, tornadoes or economic downturns.

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The construction industry is stereotyped as an industry of destruction and delays. Everyone has used "the darned construction on the road" as an excuse for being late for work at one time or another. Instead, the construction industry, specifically infrastructure construction, is a sign of controlled growth and economic development. Proper planning and management allows for areas to be developed with a focus on environmental protection—protecting its beauty and resources—while allowing for economic growth of the area. The installation of new water and waste water systems and the reconstruction or rehabilitation of existing systems controls the output of sewage and helps to protect as well as rebuild the environment.

In the provincial Places to Grow plan, Barrie is identified as a designated growth centre node because it is a desired location for both residential and commercial/industrial expansion, due to its proximity to the GTA as well as having all of the previously noted services in adequate supply. Specifically, Barrie is described as the primary area for new population and employment growth, with 33% of the future population growth and 44% of its future job growth occurring in the

city. The need for new homes, employment opportunities, supporting services and transportation will need to be managed accordingly. Barrie, once again, is in the best position to quickly act on these requirements. The Barrie-Innisfil act will allow Barrie to deliver the plan and to support this expected growth and provide well-planned, long-term sustainable infrastructure development, which will support local employment and provide the quality of life that all Ontarians should have, and Barrie can do it now, when it is most needed. If the annexation does not happen, then Barrie cannot fulfill its requirements within the provincial growth plan, and Innisfil is not a viable alternative, because it does not have any readily available services.

Bill 196 is estimated to have an influence of potentially \$500 million within the next 30 years. It is our understanding that the city of Barrie has the infrastructure and services in place now to begin the expansion into the proposed annexation lands. For example, Barrie has strong existing sewer supply, water supply, storm water management, waste management, education facilities and other essential services to support such an immediate expansion. A great deal of the development dollars required for additional infrastructure will come from private developers and other partnerships, making a strong alliance of business and government for the betterment of all concerned. The construction industry, which has been devastated in the last 18 months because of the economic crisis, will benefit greatly.

Finally, we firmly believe that Bill 196 will be of benefit to Innisfil as well. All the points we've mentioned will provide Innisfil with a stronger infrastructure and more immediate resources for growth and development, along with the benefit of being an important part of the best plan for the entire Simcoe region. The natural beauty of the Innisfil area, with its great shorelines and rivers, will be better protected if it is part of the larger plan than if it remains in a smaller scale, without proper infrastructure for development.

In conclusion, on behalf of the Simcoe County Heavy Construction Association, we repeat our support of the Barrie-Innisfil act, Bill 196, and believe that its adoption supports the directives set out in the provincial Places to Grow plan for Simcoe county. Further, Barrie is in the best overall position, with significant resources and infrastructure in place, to immediately handle the growth and development outlined in this plan.

We thank the committee for their time.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That leaves us just about two minutes per party, and we'll start with the NDP. Mr. Prue?

Mr. Michael Prue: The lands in question that are going to be transferred were subject to a moratorium for a long time—20 years. So Innisfil could not develop them. Even if they had wanted to, they couldn't do it. Now Barrie wants to do it, as that is being lifted—to develop. Why is it that you think that Barrie can develop them better than Innisfil could?

Mr. Roger Graham: From what we've seen and heard, Barrie has upgraded their services to the border so that they can expand more easily and quickly.

Mr. Tony DiPede: Proximity is a big avenue, also—proximity of the existing facilities for sewage treatment and water treatment. From the Innisfil border to Barrie, it is closer than going all the way in to Innisfil.

Mr. Michael Prue: Innisfil argues quite strongly that they believe that they are going to lose a lot of tax revenue and development opportunity for a relatively small, population-wise, community. Do the developers in the construction industry have any difficulty with them being compensated or a special levy being laid on that new construction, new homes, new business, in order to compensate Innisfil for its loss?

Mr. Tony DiPede: I don't think that we really have a comment on whether the developers should be compensating the homeowners or not.

Mr. Michael Prue: There are development charges in many parts of the province. Developers—although they resent it, I have to tell you, they pay it. It doesn't seem to have stopped development in places like Markham or Mississauga.

Mr. Tony DiPede: Development has also been very helpful in getting involved in public and private partnerships where the developers put forward a considerable amount of money to develop the resources that are required in the area, such as parks, schools, libraries. So that would be where, I think, the developers would contribute quite a bit of money, and they have in the past in various areas.

The Chair (Mr. Lorenzo Berardinetti): Thank you. I'm going to have to move on to the Liberal Party. Mr. Rinaldi?

Mr. Lou Rinaldi: I really don't have a question or a comment. I just want to thank you for coming out today to express your views. I think it's very, very important for the committee to get the balanced approach as we move forward on this.

Mr. Tony DiPede: Thank you.

The Chair (Mr. Lorenzo Berardinetti): To the Conservatives. Mr. Dunlop?

Mr. Garfield Dunlop: Welcome. I appreciate your presentation. I know you're definitely supporting the legislation. There's no question about that.

I think the argument that's coming up a little bit here today is exactly where all the growth in the county of Simcoe will go, and there are definitely conflicting opinions on some of the areas that haven't received enough growth. I actually don't expect you to comment on that because that's pitting one municipality against the other, and your job is to lay the pipes and make sure that we do it in a positive way and a good, clean, environmentally safe way.

I wondered if you'd make a comment on some of the work you've done with our colleges around here, because—I think we've got a second here to talk about it—I know you've worked with Georgian, and I think there has been some pretty strong leadership in that way

from this association. I thought maybe you might like an opportunity to say something about that.

Mr. Tony DiPede: Roger?

Mr. Roger Graham: Our association has been involved—the Simcoe County Heavy Construction Association, along with the Ontario Sewer and Watermain Construction Association—in Georgian College. We were very instrumental in their infrastructure building that just went up. We contributed and we're great supporters in that to develop something where we're now bringing civil engineering back into the construction industry—being taught at Georgian College; a program that had been taken out.

Our industry is lacking labour force in a very big way, and Georgian College has become very instrumental in helping us to attract people into it. We're looking for students in grades 9, 10 and 11 to come into our industry once they complete high school. We're trying to get offers and alternate sources as opposed to everybody going into—no offence—the computer sciences, lawyers, doctors and all. Our industry is going to be right up there. We need people in our industry.

Mr. Garfield Dunlop: I appreciate you saying that.

Mr. Roger Graham: One minor thing: We ended up with an inter-competition between two associations: the Ontario Sewer and Watermain Construction Association and the Ontario Road Builders Association. One group donated \$125,000 and the other one matched it, so we exploited them.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation today.

COUNTY OF SIMCOE

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next presentation, which is the county of Simcoe. I have Rick Newlove here. Good afternoon—it's still good morning. Good morning, and welcome.

Mr. Rick Newlove: Good morning.

The Chair (Mr. Lorenzo Berardinetti): And if you could kindly identify your names and your titles. You have 15 minutes.

Mr. Marshall Green: Thank you, Mr. Chairman and members of the committee. My name is Marshall Green, with Graham Wilson and Green law firm. We're counsel to the county of Simcoe. I'm joined today by Mr. Rick Newlove, who is the general manager of corporate services for the county. I'm going to present just a few minutes on one legal issue, and then Mr. Newlove will discuss some of the more global issues on behalf of the county.

I passed out three handouts to explain the issue, and it's the one basically that, in part, Ms. Vanderpost spoke to you about first thing in the morning. If I could ask you to, first of all, have a look at the large map, the coloured map. The problem occurs because of the way the description was done in the legislation, in the schedule to the act. The description of the proposed annexed land starts down in the bottom left-hand corner, which is the

southwest corner of the annexed lands. If you follow the description through, it goes east along the centre line of the roads and then north, and then it goes farther north, across, back down, it goes sort of west and then south, and then west and then south. Then eventually it gets over to what is the northwest corner of this piece of land, and then the description calls for it to go south along the centre line of County Road 27 to the place of commencement.

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Unfortunately, what wasn't looked at at the time was that County Road 27 has a diversion. If you can see just above the green circle—there's a little green piece of land there—County Road 27 actually diverts at that point. This was a bypass that the province built in the early 1990s to get people to come off of the 400 to get up to Wasaga Beach.

If you look at the aerial photo next—this is the one that I think Ms. Vanderpost tried to show you—you can see that the green line shows you how the actual county road comes out to a point and then continues south. If you look at the V, the left-hand side of the V is County Road 27 and the right-hand side of the V is Essa Road in the city of Barrie. County Road 27 comes down and then, where Essa Road joins the remainder of County Road 27, it continues south. So what you've got is this little island of land which is comprised of Ms. Vanderpost's land; a piece of land that's still in the title of the province of Ontario; and the old County Road 27, which is now closed and still belongs to the county of Simcoe. So you actually have three landowners who won't be in any municipality after this legislation is passed. There will either be an island of Innisfil left in the middle of nowhere, or they'll have no municipality. That's why Essa township was contacted. Essa township is the township to the west, and they've agreed to take this piece of land in.

That's the problem that Ms. Vanderpost is having with emergency services, because when she calls up and says that she's in such-and-such a location, they don't know if they should be sending the Innisfil fire department or the Essa fire department or the Barrie fire department.

The third item that I gave you is actually a piece of the expropriation plan that was done back in the early 1990s. I've outlined in yellow what the—you're aware that there have been settlement meetings between the city of Barrie and Innisfil, and we've agreed, first of all, to move the boundary. Where it talks about the centre line, we want to move the boundary over to either the east or the west side, as the case may be, so that one municipality owns the road. They'll conduct the maintenance of it; they'll do the winter maintenance, the summer maintenance and any expansions that have to be done.

It was also agreed that at intersections like the one where it marks the right-of-way and it comes down to pick up 27, we would go 100 metres back to allow room for snow ploughs etc. to be able to make their turns.

What I've outlined in yellow is what the three parties have agreed would be the new border between Innisfil

and Barrie. The triangular piece of land—everything to the left on this sheet, or to the west, would become Essa township, and Innisfil is on the other side of that yellow line. It will likely require some surveying, particularly to survey the 100 metres. Other than that, it can just say the easterly or westerly limit of the road allowance, as the case may be.

That's the one legal point. The other legal point that I just want to briefly mention is the county forest. You'll see again on the map, it marks the Blauxham tract of county forest. As the honourable Mr. Dunlop mentioned earlier, the county of Simcoe is very proud of the huge tracts of forest that we have, that have been developed for the last almost 100 years. This piece of forest will end up in the city of Barrie.

We're quite content that the land go into the city of Barrie for planning and official plan purposes etc. and we've also come to an agreement that the city of Barrie's bylaws with ATVs and these kinds of things would still apply to our land, but we are hopeful, we're trusting that the city of Barrie will honour the agreement they have that by January 10, for \$1, we'll get that piece of land back. It'll still be county of Simcoe land for our purposes of culling and controlling it.

Those are my points from a legal point of view, Mr. Chairman. Mr. Newlove would like to make a few comments now.

Mr. Rick Newlove: Yes, I just want to say that we've worked hard with the staff of the city of Barrie and the town of Innisfil to write up the agreement with regards to the road and the intersection controls. It's something, we feel, that is needed so that we can work and ensure that the roads are protected and we're not fighting over shared ownership of reconstruction or maintenance purposes. That's the intent, that somebody would own the entire road right away and control the intersection as well.

As well as the county forests, as Mr. Green mentioned, Bill 196 says that any property in the county of Simcoe be vested in the city of Barrie, and that's our concern—that the forest would be just given over to the city of Barrie. We do have other county forests in the city of Barrie today, we do have a lot of social housing in the city of Barrie, we own a lot of property in the city of Barrie, so why would we just give this section of land to the city of Barrie is the question as to the way the legislation was written.

The other issue that we would like to be considered as part of this too is compensation. As you know, Innisfil pays taxes to the county of Simcoe. If they're losing assessment and revenue through the tax base, so will the county of Simcoe, and the other municipalities within Simcoe county will have to make up that shortfall. If there's compensation that comes from the province of Ontario, the county would like to be considered as part of that.

The Chair (Mr. Lorenzo Berardinetti): Does that complete your presentation?

Mr. Rick Newlove: Yes, that completes the presentation. We just wanted to make sure those points were considered and understood by this committee.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have just under two minutes per party and we'll start with the Liberal Party. Mrs. Sandals.

Mrs. Liz Sandals: Yes, thank you very much for giving us all the official maps around Ms. Vanderpost's property, I think. That's quite helpful. Listening to you and Innisfil and other people, have you also reached an agreement on shifting all the boundaries to one side or the other of the road allowance?

Mr. Marshall Green: Yes, we have.

Mrs. Liz Sandals: And has that material been made available to the province?

Mr. Marshall Green: I'm not sure. I have an e-mail that came from Ms. Rebecca James-Reid to me yesterday, indicating that I could tell this committee that—I can read it. It says, "Please accept this e-mail as confirmation that staff from Barrie understood the proposed boundary to be the easterly boundary of the currently travelled County Road 27." That's for this particular situation. "Presumably following tomorrow's committee hearings all other technical description problems in schedule 1 can be solved."

Mrs. Liz Sandals: What I'm really asking you about is all other technical description problems.

Mr. Marshall Green: Yes. Mr. Longo confirmed with me this morning, as did Ms. James-Reid, that they're content that all the boundaries be on the east or the west side of the road, as the case may be.

Mrs. Liz Sandals: Or the north or the south.

Mr. Marshall Green: Or north or south.

Mrs. Liz Sandals: My practical experience is that the worst roads in the province are town lines because the boundary goes down the middle and nobody can agree who will maintain them.

Mr. Marshall Green: We do have boundary agreements with, for instance, the county of Grey, but they are problematic. It is much better when one municipality owns it.

Mrs. Liz Sandals: So somebody will forward all this technical information very, very quickly to municipal affairs.

Mr. Marshall Green: Between the city of Barrie, the county and Innisfil, we would be pleased to present. There will have to be some surveying done and we'll have to talk about who gets to do that surveying, but short of that, we'll be happy to put that all to the province. We've been working with Mr. Gutfreund and we've had a very good relationship with him as well.

Mr. Rick Newlove: I should mention that the province has been at the table working with the municipalities. So the Ministry of Municipal Affairs does have up-to-date copies of this agreement. It also incurs language with regards to waste management, fire service and police services. All those issues are addressed as part of that agreement.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on to the Conservatives. Mr. Dunlop.

Mr. Garfield Dunlop: Through to Mr. Newlove, just a quick question. I don't know if you heard the presen-

tations from Tay and Oro-Medonte—and I know Penetanguishene and Midland are making a joint presentation here. Do you support what they're trying to do by having additional growth allocated now instead of waiting for a five-year review or something, or is the county locked into this vision?

1210

Mr. Rick Newlove: No, the county has actually passed a motion at county council requesting that the \$40,000 that was taken away from municipalities be reinvested in the plan, so the plan goes up by \$40,000 so that those smaller municipalities can continue to grow. Some of the concerns are that the residents—as their children grow up, there's no room left for them to build a house and live in those communities because the numbers are so tight.

Mr. Garfield Dunlop: So that was supported, and that's a motion of county council?

Mr. Rick Newlove: Yes, it is, and it has been submitted to the ministry.

Mr. Garfield Dunlop: Okay, thank you very much. I wasn't aware of that.

The Chair (Mr. Lorenzo Berardinetti): Mr. Prue?

Mr. Michael Prue: I want to come back to the issue of compensation. This seems to be the nub of the dispute. I think, in listening to Innisfil, they are saddened that they're losing the land, but they understand they may, and what they want is some money. I listen to Barrie, and they're happy to get the land, but they don't want to give anything for it. What's the county's position? Should there be some money made available to Innisfil to compensate for the loss or not?

Mr. Rick Newlove: I think the county is saying that there should be compensation given to Innisfil and the county of Simcoe because there's taxpayers' money that's going to be lost to both Innisfil and the county of Simcoe because Innisfil pays taxes to Simcoe county, and so do all the municipalities in Simcoe county. What you're requesting the rest of Simcoe county municipalities to do is make up that shortfall on taxes that will be lost that would come into the county as well.

Mr. Michael Prue: There are two groups that can give that money: Either the city of Barrie can be made to pay the money over the period of time or the province would have the option, I guess, of paying for the city of Barrie or directly to Innisfil. Does it make any difference to the county of Simcoe who would pay, provided the compensation is made?

Mr. Rick Newlove: No. We're not concerned who pays that compensation.

Mr. Michael Prue: And should it be the result of any development charges? Obviously a great deal of money is going to be made by the owners, and we've had them here today too, the developers, the people who own the land and who will see farmland change from something that doesn't get very much taxes into an industrial, commercial, high-rise and residential base. It's an enormous growth in increased capacity. Should they be forced to pay?

Mr. Rick Newlove: I guess the existing development charges bylaw would have to be changed to allow that to happen; legislation would have to be changed because I don't think you can collect from one municipality to pay another municipality. I'm not aware of that.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation, and for your maps as well.

TOWNS OF MIDLAND AND PENETANGUSHENE

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next presentation, which is the towns of Midland and Penetanguishene. Good afternoon, and welcome to the committee.

Ms. Anita Dubeau: Good afternoon.

The Chair (Mr. Lorenzo Berardinetti): We have 15 minutes allocated. If you don't use all that time, we'll ask questions of you. If the presenters could kindly identify their names and titles for the sake of Hansard, we'd appreciate that as well.

Ms. Anita Dubeau: My name is Anita Dubeau and I'm the mayor of the town of Penetanguishene. I'm here today with my colleague Deputy Mayor Ruth Hackney from the town of Midland. We also have senior staff with us today: Eleanor Rath is the CAO of our municipality, and Mr. Wes Crown is here with us from the town of Midland; he's their planner.

Midland and Penetanguishene are two immediately adjacent towns located in the north portion of the county of Simcoe, approximately 50 kilometres north of Barrie, having a combined population of 28,000.

As the committee is aware, the government released its vision for the Simcoe area on June 4, 2009. It is to that vision for the Simcoe area, as currently proposed by the government, that we wish to speak today.

Bill 196, along with the proposed amendment to the growth plan for the greater Golden Horseshoe, are intended to describe an urban structure for the Simcoe area that is based on managing growth in a manner that changes the way our communities grow and develop and that would better achieve the goal of building strong and vibrant communities. We agree with this goal.

We in the towns of Midland and Penetanguishene have always felt that a plan for the Simcoe area must recognize Barrie as the central urban place in the urban structure of the area. We as local municipalities would always prefer local solutions to local issues.

We will let others who are more knowledgeable and directly involved speak specifically about the proposed boundary change between Barrie and Innisfil, and obviously that has happened this morning.

What is of most concern to us is the other component of the government's vision for the Simcoe area: the proposed amendment to the growth plan for the greater Golden Horseshoe.

I will turn it over to my colleague.

Ms. Ruth Hackney: Good morning. Deputy Mayor Ruth Hackney of the town of Midland.

The government's rationale for Bill 196 is based on its vision for the urban structure of the Simcoe area, which includes, in addition to the identification of Barrie as the anchor urban node, the identification of four additional urban nodes of Collingwood, Orillia, Alliston and Bradford.

Mr. Chairman and members of the committee, it is the position of the towns of Midland and Penetanguishene that for the government's vision for the Simcoe area to be complete, it must also recognize and designate the towns of Midland and Penetanguishene as an urban node.

As Mayor Dubeau indicated, the towns of Midland and Penetanguishene have a combined population of 28,000. This represents the third-largest urban node in the Simcoe area, larger than the identified nodes of Collingwood, Alliston and Bradford.

Equally if not more importantly, Midland-Penetanguishene represents the fourth-largest employment node in the Simcoe area. In fact, the second-largest private sector employer in the Simcoe area, after Honda, is Elcan Optical Technologies, which is located in Midland.

Penetanguishene is also the home of the 10th-largest employer in the Simcoe area, being the regional Mental Health Centre Penetanguishene, which is a fully accredited 312-bed psychiatric hospital, employing over 1,100 people and providing mental health services throughout the Simcoe area and beyond.

Midland and Penetanguishene already function as an urban node. We are a complete community. We are a centre of employment and education. We are the centre in north Simcoe for the provision of a complete range of federal, provincial and county services. And we are well planned and planning for the future.

Midland-Penetanguishene is already an urban node and should be designated as an urban node in the proposed amendment to the growth plan. The municipalities of Midland and Penetanguishene prepared a joint submission to the province regarding its vision for the Simcoe area and our joint request for an urban node designation, and we have provided you with copies today.

The towns have already had preliminary discussions regarding joint land use, joint planning and operations for infrastructure and continued co-operation on economic development. While this level of coordination and co-operation may be unusual elsewhere, it really is just an evolution of our long history of co-operation on several fronts.

Mr. Chairman and members of the committee, we believe that a strongly defined urban structure for the north Simcoe area includes an urban node for north Simcoe, and that a strongly defined urban structure for the Simcoe area is in the best interests of the province of Ontario.

I will now turn it back to Mayor Dubeau.

Ms. Anita Dubeau: The government has described Bill 196 as part of the implementation of a vision for the Simcoe area and defining a strong urban structure for the area.

The towns of Midland and Penetanguishene believe that it is in the best interests of the province of Ontario and of the people of the Simcoe area that we are identified as an urban node in the proposed amendment to the growth plan.

We also believe that the amendment to the growth plan must follow shortly after the passage of Bill 196 in order to complete the province's vision for the Simcoe area.

We hope you agree with us and trust that you will ensure that the other elements of the government's implementation of its vision for the Simcoe area beyond Bill 196 will reflect our concerns.

This concludes our remarks. We would answer questions, if there are any.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have roughly three minutes per party. We'll start with the Conservatives. Mr. Dunlop?

Mr. Garfield Dunlop: Thank you for the joint presentation. I think, really, what you've done this morning is enhance some of the conversations we've had over the last few months, and you've supported what both Oro-Medonte and the township of Tay have said as well.
1220

Quite frankly, I was happy to hear the comment—I didn't realize you were having a specific motion passed at county council allowing for the bill to be amended, and I applaud the county for that.

I don't really have a specific question other than the fact that maybe you might want to comment on the fact that so much emphasis is put into the north Simcoe community. You may want to comment, for example, on the work we do around physician recruitment, our hospitals and the new program we've got with the mental health centre and the divestment. I think maybe that might be helpful to the community as well—to one of the mayors.

Ms. Anita Dubeau: Yes, that's very true. We co-operate on many fronts. Tourism—we have been talking recently about perhaps an opportunity for infrastructure in reference to water. It's very preliminary but it is something that the communities are quite willing to work on. There's doctor recruitment, as you mentioned. We're all involved in that, not only with hours of volunteerism but financially as well.

Perhaps Ruth would like to—

Ms. Ruth Hackney: Thank you. We also work together on several fronts. We are a joint community when it comes to our chamber of commerce. It's all of the municipalities, with the township of Tay, the township of Tiny and the towns of Midland and Penetanguishene.

We have been working together for quite a few years in a number of aspects. We feel that Midland and Penetanguishene being recognized as an urban growth node is something that has already happened. It just needs to be put into place properly.

Mr. Garfield Dunlop: It's almost as though there was a mistake made and it just was ignored. I mean, that's the

way I look at it. I can't believe this is not a growth node. Obviously, they have the population. So if we can do anything, let's go back to the growth vision and fix that, once and for all.

Ms. Anita Dubeau: Yes. I'll just make one comment: When you look at the growth nodes that have been defined, there's a lovely spot up north that needs to have a red dot on it as well.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have to move on to Mr. Prue, NDP.

Mr. Michael Prue: Thank you very much. The township of Tay—the mayor who showed up said you were going to come. He talked about Port McNicoll and the fact that some of the municipalities, some of the towns, were not able to develop. What is the current state of affairs? I have not been, for a couple of years now, to Midland and Penetanguishene. Is there growth opportunity or has it stalled? What is happening?

Ms. Ruth Hackney: We'll let our planner speak to that. Mr. Crown.

Mr. Wes Crown: Thank you, Mr. Chairman. Wes Crown. I'm the director of planning and development for the town of Midland. I think the CAO from the town of Penetanguishene will respond as well.

There is an interesting disconnect between the population forecasts that the province has set out in its vision for our municipality and the actual approved developments that we already have on our books. We have a population approved within existing and registered plans for subdivision and draft plans for subdivision for about 5,400 people. The province has allocated population growth to Midland of 2,100 people until 2031.

The development that has already been approved in Midland is within our settlement areas, within our built boundary. It's on full services. A significant portion of the development is actually brownfield redevelopment, where we're decommissioning and revitalizing existing and underutilized industrial areas in the municipality—all the things that the province wants to do as part of the Places to Grow plan. We think there needs to be this correction made in the vision for Simcoe county as part of Bill 196, which is part of that exercise.

Ms. Eleanor Rath: If I might comment on behalf of Penetanguishene, because the numbers are based on the census from a few years ago, we in fact have already reached our 30-year target. People would literally have to die in Penetanguishene for us to grow.

Our extensive growth management study looked at a bottom-up exercise. We analyzed intensification, in keeping with Places to Grow. So within our existing urban area, without any expansion into Tay Point, we could accommodate twice our current population, so another 10,000 people. We had an hour-long presentation last night. We are increasing the capacity of our sewage treatment plant, and the federal and provincial governments are contributing to that project. It's a \$20-million project and it will facilitate a further expansion of that plant in approximately 15 to 20 years' time. So we are well able to accommodate much more than our current population.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Let's move on, then, to the Liberals. Mr. Rinaldi?

Mr. Lou Rinaldi: First of all, let me congratulate you on working together. That's something that doesn't happen very often, so it's refreshing to hear that. I know that at the end of the day that will reap benefits, especially for smaller communities based on large urban centres.

Just a quick couple of comments: I think you make a compelling argument, and I'm sure the Minister of Energy and Infrastructure, who is responsible for the growth plan, will review this process. Part of the growth plan is an automatic review every five years, because those censuses do change and demographics change. So I would hope that the ministry would look at that, and I'm sure they will, because that's why that piece is there.

I guess just a question—sorry, I missed your name; the planner—that this is an important time for this to happen based on Bill 196. Tell me the relationship here.

Mr. Wes Crown: The government has defined a vision for the Simcoe area, of which Bill 196 is a part. The amendment to the growth plan does not come to the Legislature; it only goes to cabinet, so this is really our only opportunity to get to members of the Legislature to say that we, to some extent, agree with the vision that the province has defined for the Simcoe area, but we think there has been a mistake in that vision, and they need to correct that mistake before they implement it through the various measures that they're going to undertake: Bill 196, the amendment to the growth plan etc.

Mr. Lou Rinaldi: Okay, that's fair. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation today and for coming out.

ONTARIO HOME BUILDERS' ASSOCIATION

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next presentation, the Ontario Home Builders' Association: Mr. James Bazely, president.

If you would just identify yourself, your name and title, for the sake of Hansard.

Mr. James Bazely: Sure. James Bazely, president, the Ontario Home Builders' Association.

Mr. Chair, members of the committee, good afternoon. My name is James Bazely and I am the president of the Ontario Home Builders' Association. I have also served as president of the CHBA Simcoe County, formerly the Greater Barrie Home Builders Association, and as chair of the OHBA accessible housing committee. Related to the subject matter today, I served as an appointment by the Minister of the Environment on the Lake Simcoe stakeholders' advisory committee.

I have been involved in the residential construction industry here in Simcoe county for almost two decades and I live nearby, in Barrie, with my wife and my three children. My company, Gregor Homes, is involved in custom and semi-custom home building, landscaping and

renovation projects. We are known for our commitment to the environment: we build exclusively Energy Star homes. I am a volunteer member of the association, and in addition to my business and personal responsibilities, I am dedicated to serving the residential construction industry.

Let me begin by thanking you for today's opportunity and by telling you a little about OHBA. The Ontario Home Builders' Association is the voice of the residential construction industry and includes 4,000 member companies organized into 29 local associations across the province. As I mentioned earlier, I was president of the local home builders' association, representing Simcoe county, a couple of years ago. Our industry contributed approximately \$37.8 billion to the province's economy last year and generated 365,000 person-years of employment. We would appreciate your consideration of all our views on Bill 196, An Act respecting the adjustment of the boundary between the city of Barrie and the town of Innisfil.

I am sure today you are going to hear a wide variety of opinions on the proposed adjustment of the boundary between the city of Barrie and the town of Innisfil. If you are able to take one key fact from my remarks today, I'd like each of you to note the fact that the status quo is not an option. It is no secret that the political relationship between Barrie and Innisfil has seen better days, and to be quite frank with you, it hasn't been working at all in the past couple of years. We need change and we need the province to take a leadership role in delivering that change. That is why OHBA is supportive of Bill 196 and the adjustment of the boundary between the city of Barrie and the town of Innisfil.

The province did the right thing by seeking a locally initiated solution to the ongoing servicing and boundary dispute between Barrie and Innisfil, but patience has run out for many of us who live and do business in either of these communities. I am pleased that the province has taken action and demonstrated leadership by stepping into the fray to finally solve this boundary and servicing issue.

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Let me take a step or two back and provide some context for the discussion. The Ontario Home Builders' Association was generally supportive of the scientifically based approach and strategy to reduce phosphorus levels in the Lake Simcoe watershed through the Lake Simcoe protection plan, and we are also supportive of the role that the province has played in the strategic vision for growth for the Simcoe area that was released earlier this year. The documents go hand in hand to protect Lake Simcoe by targeting phosphorus sources and by managing and directing sustainable growth in communities that have the capacity to absorb new population and employment.

OHBA supports the objective to protect environmentally sensitive green space and agricultural areas while focusing development on and around existing cities and towns that can accommodate new growth to create

vibrant, complete communities, with Barrie intended to be the primary recipient of growth in Simcoe county.

Furthermore, OHBA believes that the actions the province has taken with respect to growth management in Simcoe county strongly reflect the provincial policy statement and Places to Grow and are consistent with other legislative and regulatory initiatives impacting community development and environmental protection.

In the last year, the mayor of Innisfil has stated that "We don't need growth as proposed—we are a community of communities." This is not the recipe for smart growth and intelligent use of infrastructure. A spread-out, low-density pattern of unconnected communities will require additional roads with few, if any, transit options and will force residents to have longer commutes. Perhaps worst of all, this would encourage the additional use of septic systems, which contribute phosphorus leakage into our rivers, streams and eventually right into Lake Simcoe.

OHBA supports a coordinated approach to growth planning and management, as well as targeted investments towards critical infrastructure, which is not the approach that Innisfil was prepared to have without provincial intervention.

The province rightly sought a local solution to growth management and political disputes between municipalities. But after years of local infighting, enough is enough, and the province has to step in to protect the health of the watershed and to ensure that growth can occur in an ecologically sustainable manner over the next few decades.

Barrie has essentially run out of land. Housing starts in Barrie were typically about 2,500 from the years 2001 to 2004, and levelled off between 1,000 and 1,500 in the years after. This year, CMHC is forecasting only 345 starts, and next year only 385 housing starts.

Some of this drop-off can be attributed to broader economic conditions, but no region, including the epicentre of the automotive crisis in Windsor, has experienced these kinds of declines. Barrie has essentially run out of room to grow, and Innisfil has been an unwilling partner in setting a long-term vision for the future of Simcoe county.

If either Places to Grow or the Simcoe Area: A Strategic Vision for Growth are to be implemented, then Barrie requires more room for growth. Obviously, intensification will play a key role in the evolution of this community, but additional servicing for greenfields in strategic locations near existing core infrastructure is a key component for the future of Barrie and Simcoe county. This is why the boundary between Barrie and Innisfil has to be changed.

Let me provide you with a pretty clear example as to why this issue boiled over and required a provincial solution. Barrie and Innisfil have had a long-standing service dispute with respect to water and waste water. A number of years ago, a trunk sewer line from Barrie was completed to the border of Innisfil. This is infrastructure that is in the ground and ready for use, but it has been

capped at the municipal boundary in part due to ongoing disputes between the two municipalities. This is no way to plan for growth.

I applaud the government for its bold effort to redefine how we live, work and play in this community. The Lake Simcoe Protection Act is a unique piece of legislation in this province that sets out the framework for a long-term protection plan for Lake Simcoe. The province followed up this conservation effort with a comprehensive plan for growth in the coming decades for Simcoe county that will focus development on and around existing cities and towns that can accommodate growth.

Finally, this boundary issue was the key missing element to ensure that Barrie can continue to grow in an orderly, well-planned and sustainable manner that is in keeping with the provincial policy statement, the Places to Grow plan for the greater Golden Horseshoe and the two recent initiatives I just mentioned: the Lake Simcoe protection plan and the strategic vision for growth in the Simcoe area.

In closing, I would like to reiterate that as the engine that drives this provincial economy, the residential construction industry pours billions of dollars into municipal, provincial and federal coffers. OHBA and CHBA Simcoe county members wish to continue to allow the home building and development industry the opportunity to assist in serving the provincial goals and interests of affordable housing, increased levels of intensification and the creation of a dynamic community.

To maintain a high quality of life and economic prosperity, OHBA supports Bill 196, An Act respecting the adjustment of the boundary between the City of Barrie and the Town of Innisfil. It is therefore critical that the province move to pass this legislation prior to the new year to ensure that the boundaries are in place effective January 1, 2010, thus ending this long-standing boundary issue.

Mr. Chair, members of the committee, I would like to thank you for your attention and interest in my presentation, and I look forward to hearing any comments or questions you may have for me.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Bazely. We have about a minute and a half per party, and we'll start with the NDP. Mr. Prue?

Mr. Michael Prue: Thank you very much. You've made your presentation quite forcefully. I know exactly where you stand. You spoke on every single issue save and except the one that is key to my mind, and that is whether or not Innisfil should be compensated for the loss of the land, compensated for all of the infrastructure that's been built up to the land and for the future development. Should Innisfil be compensated?

Mr. James Bazely: It's my opinion, and my opinion only, that there should be some sort of compensation. Now, whether that's an actual cheque that's been cut or some arrangement that can be made for the future as growth happens, I'm not completely against some compensation.

Mr. Michael Prue: All right. So this whole thing might be resolvable to everybody's satisfaction if the province and/or Barrie sat down and compensated Innisfil. We could all get on with our lives.

Mr. James Bazely: Right.

Mr. Michael Prue: Thank you.

The Chair (Mr. Lorenzo Berardinetti): We're on to the Liberal party. Mr. Rinaldi?

Mr. Lou Rinaldi: I don't really have any questions. I think you've made your presentation based on the industry that you represent, and we really appreciate that you've been here today. Thank you.

Mr. James Bazely: Thank you.

The Chair (Mr. Lorenzo Berardinetti): To the Conservatives, Ms. Munro?

Mrs. Julia Munro: Thank you very much for being here today. Mr. Prue stole my question. I thought it was—

Mr. Michael Prue: I'm sorry, I didn't know.

Mrs. Julia Munro: I thought it was important for us to know that you agree that it would be fair to have compensation.

Mr. James Bazely: Quite frankly, OHBA and myself personally have not been privy to any of the negotiations that would reflect on or refer to compensation, so I'm not an authority to comment on that. Again, my personal opinion would be that it is probably prudent that some compensation be paid. I think it needs to be reasonable and realistic.

Mrs. Julia Munro: And it's simply a matter of the principle of compensation that I was asking you, because I don't expect you to have details. I don't either.

Mr. James Bazely: Okay, thank you.

The Chair (Mr. Lorenzo Berardinetti): Mr. Dunlop, quickly.

Mr. Garfield Dunlop: Thank you for your presentation. I noticed you mentioned a number of times the Lake Simcoe protection and how you felt that it would be an improvement to Lake Simcoe. My concern is that we are putting, in all likelihood in that particular area, another 60,000 to 70,000 people into the population. What we haven't seen—we have a Lake Simcoe protection plan but we've got no money to go with it. There has been \$30 million from the federal government in different projects around the lake; however, nothing from the provincial government at this point. You're representing the homebuilders. If you're going to protect Lake Simcoe and protect the storm water management, the surface runoff and that sort of thing, you'll be paying for it. One way or the other, you'll be the person paying for it.

Mr. James Bazely: You mean to tell me Smitherman has no more infrastructure money left for us?

Mr. Garfield Dunlop: He's got a \$25-billion deficit. What do you think?

The Chair (Mr. Lorenzo Berardinetti): Thank you. That completes the time. Thank you for your presentation.

JOHN BAMFORD

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next presenter, Mr. John Bamford. Good afternoon and welcome. You have 10 minutes. Any time that you don't use, we'll ask you questions.

Mr. John Bamford: That's fine, thank you.

The Chair (Mr. Lorenzo Berardinetti): Just for the sake of Hansard record-keeping, if you could just identify your name for the record.

Mr. John Bamford: Thank you, Mr. Chairman, members of the committee. First of all, I would like to state that I am a resident of Innisfil—

The Chair (Mr. Lorenzo Berardinetti): I'm sorry, your name again?

Mr. John Bamford: My name's John Bamford from Big Bay Point Road in Innisfil.

I'd like to state that I am a resident of Innisfil who will be directly affected by this bill.

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I'm not opposed to progress, annexation or the need for growth. I am, however, opposed to the manner in which this process of annexation has been carried out. None of the officials, politicians or bureaucrats involved in this process have been forthcoming in providing information on what those residences and businesses that are directly affected by the annexation can expect after being enveloped into the jurisdiction of the city of Barrie.

Since May 2009, I have sent numerous e-mails to MPP Aileen Carroll, the Minister of Housing, various members of Barrie city council and Innisfil council. The buck has been passed around and around, and we are still without answers.

To give you some examples of this, I sent an e-mail to Aileen Carroll on June 22—no answer; I sent another e-mail on June 26—no answer; July 4—no answer—actually, pardon me. On July 4, I did get an answer:

"Mr. Bamford—your correspondence has been received and I have sent an inquiry to the Minister of Municipal Affairs and Housing.

"Regards,

"Peggy Finch

"Constituency assistant."

On August 6, I sent another e-mail. The reply:

"I apologize for not responding sooner. I am making inquiries with the ministry and will respond when I have the information for you. Please be assured that I will also bring your concerns to the attention of Aileen Carroll.

"Regards,

"Peggy Finch."

August 14:

"Mr. Bamford—I apologize for the delay in responding. The following is information that I received from the Ministry of Municipal Affairs and Housing:

"The matter of property assessment is MPAC's ... responsibility. Further, the application of tax rates for any class of property as it applies to the annexed area will be the responsibility of the city of Barrie. At present, the negotiations are ongoing between the town of Innisfil and

the city of Barrie in preparation for implementing Bill 196.

“Regards,
“Peggy Finch.”

The main concern, of course, is the ability to retain our homes and businesses given the generally larger rural lots that we have and live on and the punitive assessments handed down by MPAC coupled with Barrie’s unrealistic tax rates.

It is to no one’s surprise that the city of Barrie is anxious for medium- to high-density residential land, and I believe it is the intent of the city of Barrie to make those lands available to residential developers in spite of the repeated statements from Barrie politicians that employment lands are the city’s priority—the solution for lessening the residential tax burden on homeowners. This was mentioned by Jeff Lehman.

Barrie politicians are unsure of what they need 5,000 acres for, as is seen in the many contradictory statements presented in the media. I happened to run across this statement made by Barry Ward on August 31: “In my mind, very little of the new (Innisfil) land should be used for commercial purposes.”

On the other hand, we get comments from Barry Ward that say, “Barry Ward wants the review done as soon as possible, so city officials are ready when the land changes hands, scheduled for January 1.

“‘We probably should move on it right away,’ said Ward of the review. ‘Can we start it early to hit the ground running?’” This is referring to industrial land, so they’re not sure what they want this land for.

Finally, my biggest concern is the fact that this hearing being held today is without due notification to the 240 homeowners and farmers who will be impacted by the annexation and the woeful lack of information provided to them by Aileen Carroll’s office and by the city of Barrie.

We are less than 60 days away from this event. We have asked simple questions time and time again, and no one has been forthcoming. Only Mayor Jackson has given me straight answers, saying in mid-August to me, “We are still negotiating with the city”—over police services, over fire and compensation for taxpayers—and will continue to do so” on our behalf. Those are the last words I had from Brian.

I believe we have the right to know how we will be impacted before this legislation is passed, not to find out next June that we have been reassessed and are six months in arrears on our property taxes and our reassessed hydro consumption.

As I mentioned in my opening statement, I’m not opposed to growth or progress. But a very important group of people have been left out of this equation. This committee should address this problem before Bill 196 is passed.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That leaves about a minute per party. We’ll start with the Liberal Party. Mr. Rinaldi.

Mr. Lou Rinaldi: Thank you, Mr. Bamford. I just want to say you’ve made your point. Just a point of

clarification: Are you in the proposed annexed area or outside?

Mr. John Bamford: We are in the moratorium lands, which will be annexed on January 1.

Mr. Lou Rinaldi: Okay, so you’re part of the proposed—

Mr. John Bamford: Yes. The moratorium lands were a special parcel up at 20th Sideroad and Big Bay Point Road that was set aside until 2012, supposedly.

Mr. Lou Rinaldi: So you’re in the proposed annexed land.

Mr. John Bamford: We are.

Mr. Lou Rinaldi: I just wanted to clarify that. Thank you very much for your presentation.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any questions from—Ms. Munro?

Mrs. Julia Munro: Yes. I’m just going to ask you about the question, as it has been raised here this morning, about issues around compensation. Clearly you personally have presented issues around that, but I’m wondering if you see it as something that, in principle, this legislation should include—some mechanism for Innisfil in terms of compensation.

Mr. John Bamford: Oh, absolutely. I could comment on compensation in general in Innisfil, but that’s not why I’m here. My concern is for the homeowners who live in my neighbourhood. A lot of people are retired. Unfortunately, they own large lots. We’ve been in Innisfil for many years and we own large lots. Some of them are 300-foot frontages. That’ll be devastating once they come to the city of Barrie.

What I’m asking for is, can we phase in the taxation over a period of years? And I mentioned this in a letter to Aileen Carroll, to which I never got an answer. We need to be phased in. We can’t be faced with Barrie’s taxation because we will be reassessed by MPAC and it will be brutal. The problem is, we won’t know right away when we’ve been reassessed and the city will come to us and say, “Guess what? We did this 10 months ago and you are now in arrears for \$5,000, \$8,000.” My neighbours can’t afford that. They will lose their homes. That’s what I’m concerned about.

Mrs. Julia Munro: Thank you very much. I think it’s an important part of the conversation.

Mr. John Bamford: I think it’s very important. There aren’t that many people involved and I think the province should address those people. I mean, we’re talking 200 homes; that’s all.

Mrs. Julia Munro: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Prue.

Mr. Michael Prue: Yes. You wrote to Ms. Carroll, obviously not to your satisfaction. I heard that loud and clear.

Mr. John Bamford: Correct.

Mr. Michael Prue: Did you attempt to write to anyone else?

Mr. John Bamford: I have written to several members of Barrie city council on various occasions. I have written to my councillor in Innisfil and Mayor Jackson. I don't have a lot of time. I'm a businessman; I don't have a lot of time to sit in front of my computer or use the telephone. I try to reach the people who I think can help my concerns more so than any department in government.

I realize that Aileen Carroll is the architect of this thing, and she should have answers for us. This is her baby.

Mr. Michael Prue: I just wanted to ask, did you write to the Minister of Municipal Affairs and Housing or the Minister of Finance in terms of the taxation or MPAC policy?

Mr. John Bamford: I did not, no.

Mr. Michael Prue: You did not. Might I suggest that you do so because you do need those answers. They're very good questions you're asking.

Mr. John Bamford: A quick question to you with respect to that: Can I expect straight answers from these people? Am I wasting my time?

Mr. Michael Prue: I don't know. I never get them, but I wish you better luck.

Mr. John Bamford: I mean, we're 55 days away, and I don't anticipate results within 55 days.

The Chair (Mr. Lorenzo Berardinetti): Okay. That completes the time. Thank you very much for your presentation.

Mr. John Bamford: Thank you for hearing me.

The Chair (Mr. Lorenzo Berardinetti): That completes our list of presenters for today's meeting.

I just want to remind members of the committee that amendments are due at 12 noon, Thursday, November 12. The bus going back to Toronto will pick us up at 1:15. Members can pick up their lunch back in the room over here. We're adjourned until November 16 at 1 p.m. Thank you.

The committee adjourned at 1249.

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Standing Committee on Justice Policy

Barrie-Innisfil Boundary
Adjustment Act, 2009

Comité permanent de la justice

Loi de 2009 sur la modification
des limites territoriales
entre Barrie et Innisfil

Chair: Lorenzo Berardinetti
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Monday 16 November 2009

Lundi 16 novembre 2009

*The committee met at 1313 in room 228.*BARRIE-INNISFIL BOUNDARY
ADJUSTMENT ACT, 2009LOI DE 2009 SUR LA MODIFICATION
DES LIMITES TERRITORIALES
ENTRE BARRIE ET INNISFIL

Consideration of Bill 196, An Act respecting the adjustment of the boundary between the City of Barrie and the Town of Innisfil / Projet de loi 196, Loi concernant la modification des limites territoriales entre la cité de Barrie et la ville d'Innisfil.

The Chair (Mr. Lorenzo Berardinetti): I'd like to call to order this meeting of the justice policy committee. We're here to consider Bill 196, An Act respecting the adjustment of the boundary between the City of Barrie and the Town of Innisfil. We're here to do clause-by-clause consideration.

Before we begin, members of the committee, I'd like to explain what I would like to do. Perhaps we could start with section 1, and then with the committee's consent we could stand down sections 2 to 13 in order to deal with schedule 1, as some of sections 2 to 13 in the bill make reference to schedule 1 or to the annexed area described in schedule 1. Is that okay if we do that? We would do section 1 first, then we would hold down the rest of the bill and go into the schedule portion, because there's reference in there. Is that okay with everyone? All in favour? Opposed? Thank you; carried.

We'll move on to section 1. There are no amendments to section 1 at all, so is there any debate on section 1? No debate. Shall section 1 carry? Those in favour? Opposed? Carried.

We agreed to hold down sections 2 to 13 in order to deal with schedule 1, so we'll go to schedule 1 now, and in schedule 1 there are some amendments here. Page 4 of our package of amendments refers to schedule 1. This is a PC motion. Mrs. Munro, did you want to read it and then speak to it?

Mrs. Julia Munro: Certainly. I move that schedule 1 to the bill be struck out and the following substituted—I'd just ask the clerk if you would expect that I would read the whole thing.

The Chair (Mr. Lorenzo Berardinetti): One moment. Before we do—

Mr. Dave Levac: On a point of order, Mr. Chair: There's a vote on the floor and it's a five-minute bell, so would we be right to ask for enough time to do that vote and then proceed to come back and continue where we left off?

The Chair (Mr. Lorenzo Berardinetti): Is that okay? All those in favour? Opposed? Carried. So we'll reconvene after this vote. Sorry to interrupt. We'll recess until after the vote.

The committee recessed from 1316 to 1325.

The Chair (Mr. Lorenzo Berardinetti): I call the meeting back to order. Ms. Munro, you had the floor and you were going to read a motion.

Mrs. Julia Munro: I move that Schedule 1 to the bill be struck out and the following substituted:

"Schedule 1

"Those portions of the town of Innisfil described as follows:

"Firstly,

"Commencing at the westerly boundary of the town of Innisfil, at the eastern limit of the road allowance of County Road 27 and a point parallel to the southwest angle of the north half of Lot 1 in Concession IX;

"Thence easterly along the southerly boundary of the north half of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 in Concession IX to the eastern limit of the road allowance between Lots 10 and 11, also known as Sideroad 10;

"Thence northerly along the eastern limit of the said road allowance between Lots 10 and 11 (Sideroad 10) to the northerly limit of Concession X;

"Thence westerly along the northerly limits of Lots 10, 9, 8, 7 and 6 in Concession X to the northeasterly angle of Lot 5 in Concession X, also being the westerly limit of the road allowance between Lots 5 and 6 in Concession X, also known as Sideroad 5;

"Thence northerly along the westerly limit of the said road allowance between Lots 5 and 6 (Sideroad 5) to the north limit of the south half of Lot 5 in Concession XI;

"Thence westerly along the northerly limit of the south half of Lots 5, 4, 3, 2 and 1 in Concession XI to the eastern limit of the road allowance of County Road 27 also being the westerly boundary of the town of Innisfil;

"Thence southerly along the eastern limit of the road allowance of County Road 27 and the westerly boundary of the town of Innisfil to the point of commencement;

"Secondly,

1330

"Commencing at a point that is located at the southern limit of the road allowance between Concessions X and XI, also known as Lockhart Road, this point being south on a line parallel to the northeasterly angle of Lot 11 in Concession X;

"Thence easterly along the southern limit of the said road allowance between Concessions X and XI (Lockhart Road) to the western limit of the road allowance between Lots 20 and 21 in Concession XI, also known as Sideroad 20;

"Thence northerly along the western limit of the said road allowance between Lots 20 and 21 in Concession XI (Sideroad 20) to the northerly limit of the road allowance between Concessions XII and XIII, also known as Big Bay Point Road;

"Thence westerly along the northerly limit of the said road allowance between Concessions XII and XIII (Big Bay Point Road) to a point that is located north on a line parallel to the northwest angle of Lot 19 in Concession XII;

"Thence southerly along the westerly limit of Lot 19 in Concession XII to a point in the southern limit of the road allowance between Concessions XI and XII, also known as Maplevue Drive East;

"Thence westerly along the southern limit of the said road allowance between Concessions XI and XII (Maplevue Drive East) to the northwest angle of Lot 13 in Concession XI;

"Thence southerly along the westerly limit of Lot 13 in Concession XI to the southerly limit of the north half of Lot 12 in Concession XI;

"Thence westerly along the southerly limit of the north half of Lot 12 in Concession XI to the westerly limit of Lot 12;

"Thence southerly along the westerly limit of Lot 12 in Concession XI, to the point of commencement."

The Chair (Mr. Lorenzo Berardinetti): Any discussion?

Mrs. Julia Munro: Yes. I would just say that there was considerable discussion with relation to the schedule, particularly on the issue of long-term responsibilities, and I think that all parties understand the importance at the local level of reaching those kinds of agreements on the manner in which road allowances and the roads themselves would be maintained.

The Chair (Mr. Lorenzo Berardinetti): Any further debate?

Mr. Lou Rinaldi: We are not going to support this motion, and the reason is fairly simple. I know we've heard from all parties that they are collectively working to best define what those boundaries are, and from the sounds of what we heard, they were making really good progress and they were still working at it.

Section 9 of the bill allows regulatory powers, through the regulation process, to address those issues. The motion that was just read really is very, very descriptive in the sense that, as they move forward, that may impede further adjustments. So I think those details will be best

dealt with through the regulatory process, and the municipalities could further enhance that by their own bylaws when it comes to serviceability.

For those reasons, we will not be supporting the motion.

The Chair (Mr. Lorenzo Berardinetti): Mr. Prue?

Mr. Michael Prue: I passed in order to hear what the government had to say.

Quite frankly, any municipality needs to know what is called its metes and bounds, and surely the members opposite would know the metes and bounds set the framework under which a municipality operates: that for which they are responsible, that for which they are not. It's a clear delineation of the property line as it seems to be moving back and forth.

I don't know what advantage can be had here by the government procrastinating. Quite frankly, both parties seem to agree. I heard from the city of Barrie, as did you; I heard from the town of Innisfil, as did you. There seems to be unanimity on this point. I don't know how much more it needs to be studied, but to walk away from it today, I think, would do a disservice to both communities, because both communities will need to know when they leave here today—and certainly when the bill is passed—where the new boundary line is going to be drawn, who is going to be responsible for the road maintenance, and it ought not simply to be left up to ministerial whim in regulation. Clearly, if it is worth doing, it needs to be set in legislation so that hereafter it cannot be the subject of further ministerial whim. If we do it in legislation, that boundary will be set; if we do it by regulation down the road, what is to say that a subsequent minister, a subsequent government or the same government with a new minister years from now cannot change it again?

Quite frankly, I think that the people of Barrie and Innisfil have had enough of this. If it is worth doing, do it right. Put it in legislation so that no further minister can tinker around, make separate side deals or go back to the people of those communities and say, "We want to change it over on this block or that block, or on this street and that street." Quite frankly, the rationale behind this leaves me wanting. As a former mayor, I knew where every single house and every single street was, and I'm sure that Reeves and Mayors and people who served in municipal office opposite knew the same things. To leave it up in the air for the minister to change at whim is a total disservice.

The Chair (Mr. Lorenzo Berardinetti): Mr. Rinaldi and then Ms. Munro.

Mr. Lou Rinaldi: I too had the privilege of serving in the municipal sector for 12 years, and I truly knew where those boundaries were. Normally they were in the middle of the road, and normally adjoining municipalities had service agreements to address, if I remember correctly—maybe I stand to be corrected, but it seems that each municipality took responsibility, as a rule of thumb, although it was then prescribed in bylaws, that the road to the west, when you were going from west to east, seemed to be the responsibility of the adjacent municipality.

Having said that, I know we passed many bylaws during my days in the municipal sector for municipalities to assume service responsibilities. Furthermore, in many cases, based on the development on either side of that road, municipalities chose to take further responsibility when it came to reconstruction. So it was left totally within those municipal jurisdictions to make those decisions. Hence, I would prefer to have that flexibility left in this legislation, and quite frankly we did hear—the member is right—that they are basically in agreement with what they would like to do when it comes to the service piece. I'll leave it at that.

The Chair (Mr. Lorenzo Berardinetti): Ms. Munro?

Mrs. Julia Munro: I find it rather interesting to hear the argument presented by the parliamentary assistant, because at the very heart of the bill—if you look at the title, it says, “An Act respecting the adjustment of the boundary between the City of Barrie and the Town of Innisfil,” and in the original draft of the bill, obviously because the bill exists over a boundary dispute, the boundaries were very clearly identified. This schedule merely attempts to bring some kind of further clarification to the bill.

It seems to me that in the case we're looking at here, the minister felt compelled to introduce a bill on the very issue of a boundary, and this amendment is one that we know both sides have been working toward. It would simply clarify for all parties what they have been working together on. So I find it interesting that you would argue that this should all be swept over to regulation when the purpose of the bill is in fact a boundary change.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None?

Mr. Michael Prue: Recorded vote.

Ayes

Munro, Prue.

Nays

Balkissoon, Brownell, Levac, Pendergast, Rinaldi.

The Chair (Mr. Lorenzo Berardinetti): That does not carry.

We'll move on, then, to the next amendment, which again relates to the schedule. I think it's on page 5. Ms. Munro?

1340

Mrs. Julia Munro: I move that schedule 1 to the bill be amended by adding “save and except for those lands described as Block 29, Plan 51M-806 (PIN #58098-2006 (LT))” after “Thence easterly along the southerly boundary of the north half of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 in Concession IX to the centre line of the road allowance between Lots 10 and 11, also known as Sideroad 10.”

The Chair (Mr. Lorenzo Berardinetti): Any discussion?

Mrs. Julia Munro: As has been previously identified, the issue around the centre line created some discussion between the two municipalities. This is to further try to bring clarity to that issue.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Further debate?

Mr. Lou Rinaldi: This change will remove the Doral stormwater management pond from the proposed annexed area. The proposed amendment will change the boundary of the annexation area, and we feel this amendment is not necessary for the following reason: This motion proposes to leave the pond within Innisfil as a stormwater pond service development and will remain within the Innisfil boundaries. The three parties have been working towards the intermunicipal side agreement to deal with the transition issue as this one is.

Barrie has agreed to transfer title back to the town of Innisfil for one dollar. We believe this local agreement upon the solution is the right way to go. Even though the pond services land is outside of Barrie's proposed new boundary, its function will continue as the city has the capacity to ensure the pond's long-term viability in keeping with the strong action needed to protect the health of Lake Simcoe and its watershed.

Once again, the proposed bill will provide the minister with some regulatory power to help those municipalities reach those final agreements.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion?

Mr. Michael Prue: Again, I have some problem with this. I don't have a problem because it's going to be leased back for a dollar, because I know that an arrangement can be made.

But I think back to my own mayoral days. I know that we had a large swath of land in East York, Dentonia Park and all the land around Dentonia Park, which was the property of the city of Toronto. We had to lease it back for a dollar, and every year we had to go to the city of Toronto and ask for bylaws to make recommendations on improvements in the park. Everything from the bleachers that were put up to the ball diamonds to the cutting of the grass, we had to go back and get an agreement.

Although the city of Toronto never refused this, it did stick in my craw, and I'm sure it will stick in the craw of the town of Innisfil in the future. It is the land that they are going to have to look after, but each and every year, whenever anything has to be done around the stormwater management, the land that it's on or something else, they're going to have to go to another jurisdiction and ask them for permission to do what they know is necessary to be done.

In the alternative, should the city of Barrie wish to do something with the pond and they're going to have to go to the rightful owners and ask them, it seems to me that it is not worth the potential trouble, the festering of old municipal wounds if in fact it is the goal of everybody involved that this pond be under the control of the town of Innisfil, and it should be in Innisfil. It's pretty simple, and you will not have those municipalities coming back

and asking for regulations and changes, to a future Minister of Municipal Affairs and Housing or Municipal Affairs and whatever iteration it takes on in those days.

Is the \$1 solution doable? Yeah. Is it the best solution? No. The best solution is this motion and you should be doing it.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Ms. Munro.

Mrs. Julia Munro: I just want to add further to the fact that, going back to the process here, why we're all here is to develop some kind of recognition for Barrie and at the same time provide some viability for Innisfil. When people look at this boundary line that means that the stormwater management pond is actually in Barrie serving the residents of Innisfil, it sort of defies reasonable logic. I understand the \$1-a-year issue, but it seems to me that at a point at which you are trying to define growth in Barrie, to leave this piece like an appendage hanging out and not include it in Innisfil is just simply a complication, quite frankly, that no one needs.

The Chair (Mr. Lorenzo Berardinetti): Any further debate? None? So we'll take a vote on the motion.

Mr. Michael Prue: Recorded vote, please.

Ayes

Munro, Prue.

Nays

Balkissoon, Brownell, Levac, Pendergast, Rinaldi.

The Chair (Mr. Lorenzo Berardinetti): That does not carry.

Those are the only amendments that we have in regard to schedule 1. So the next question is: Shall schedule 1 carry? All those in favour? Opposed? That carries.

We'll go back to the bill itself. We did section 1. Shall section 2 carry? All those in favour? Opposed? That carries.

Section 2.1: There are a couple of amendments here. They seem to be similar.

Mr. Michael Prue: They're identical. We have the same lawyer.

The Chair (Mr. Lorenzo Berardinetti): Mr. Prue, did you want to go first?

Mr. Michael Prue: Mine is first, so I'll go with it. If it passes, I'm sure Ms. Munro will be happy. If it doesn't, I will be happy to vote for hers as well.

I move that the bill be amended by adding the following section:

"Compensation

"2.1(1) The city of Barrie shall compensate the town of Innisfil with respect to the tax assessment loss, debt repayment and future growth and assessment with respect to the annexed area.

"Same

"(2) The Minister of Municipal Affairs and Housing may make regulations dealing with the manner in which

the compensation is to be calculated, the amount of the compensation to be given and the timing of the payments by the city of Barrie to the town of Innisfil."

The Chair (Mr. Lorenzo Berardinetti): Any debate?

Mr. Michael Prue: Surely. The solicitors for the town of Innisfil were very kind and have set out—and I'm sure all members have a copy of this—exactly what is going to happen to Innisfil should the bill be passed without this amendment.

The first will be the lost tax revenue. Innisfil will lose over \$80 million in tax assessments, which comprises 2.5% of Innisfil's current assessment base, which is a net loss of property tax revenue of \$419,000; which in total is 1.9% of its current tax revenues from these lands. They are simply stating that if they are to lose this assessment base, there should be some compensation for it.

They go on to write about the fiscal impact on debt servicing ability and the fact that it will add some \$30,000 annually to the service costs of the debt for the new administration building, the Innisfil Recreation Complex and the Cookstown library. They are asking that this, too, be compensated for up to 20 years.

Last but not least, they point out the very real loss of development opportunity, because when this is transferred to Barrie, let there be no mistake about this: This is going to be developed to its maximum potential, as Barrie intends to grow. The land is identical. If Innisfil grew that same section, they would get all of the revenues coming out of the future assessment revenue. This would amount, it has been conservatively estimated, to nearly \$50 million more in assessment for Innisfil, and they believe that Innisfil should be compensated by the province for the loss.

1350

In a nutshell, what is being requested here by way of this motion that I am making and that my colleague who represents the area is making is that the Minister of Municipal Affairs and Housing make regulations dealing with the manner in which the compensation is to be calculated, the amount of compensation that is to be given and the timing of the payments by the city of Barrie to the town of Innisfil.

This is complex. I'm not asking you to do it on the fly. I believe the other motions that were made needed to be set in stone and could have been set in stone in the bill itself and not in the regulations. However, this will make it imperative for the minister to sit down with the two parties involved and come up with some kind of financial agreement.

This is not unique. I have spoken in the past of three other agreements that have been made since 2003 with other municipalities across Ontario and how, in every single case, there were monies made available by the municipality which was taking over the land in compensation for those municipalities which were losing the land and the assessment base. It seems to me that if it was good in every other case since 2003, it should be good in this case too. Certainly when a bigger city like Barrie takes over a portion of land from a smaller town like

Innisfil, that compensation should be, first and foremost, to the front.

I did hear from the people from Barrie in the deputations that they didn't want to pay. I heard from Innisfil that they expect payment. But I think the telling moment, for me, came when one of the developers, who surely knew the lay of the land, knew that it was going to increase the cost of the development should Barrie have to make these payments and issue some kind of levy against them. I came out in favour of it, and that was the fundamental thing: that the people who are going to develop this land saw the inherent unfairness of not compensating for it and were willing to do so even though it was going to increase their costs.

I'm asking the members opposite to vote for this in the issue of fairness and so that these two municipalities, who have been at some considerable odds for 20 years, can at least say, "Okay, the deal has been done, but I have been compensated." To not compensate them is literally tantamount to taking over a property without compensation in any form, and we would not escheat some property. We would not do that in any other case, save and except that it is allowed here without compensating those who are potentially aggrieved.

The Chair (Mr. Lorenzo Berardinetti): Ms. Munro?

Mrs. Julia Munro: I'm not going to repeat the points that my colleague has made, but I do want to emphasize a few that have been raised in this issue.

At the base of this whole issue and the whole problem is the question of compensation. Anywhere else that one does business, there's an exchange. You get something back for having given something, and yet in this particular proposed legislation there is absolutely nothing. This comes as a huge affront to the legitimacy, frankly, of both municipalities, but also certainly to the residents, who think about the fact that they have to pay for whatever it is that they receive at the municipal level—or the provincial level, for that matter—and yet here we are legitimizing in this process that one municipality can absorb part of another community when it's very clearly identified that there is a loss to that community by this process, and yet that appears not to enter into the equation at all.

Quite frankly, if I were a member of the government, I'd be embarrassed to think that I was standing behind a piece of legislation that simply took almost 5,000 hectares from one municipality to another and didn't think there was anything wrong with not having some compensation.

The question of the compensation, as my colleague has mentioned, has been carefully thought out, not in the details of amounts, but certainly in principle.

I was shocked when, in the course of the public hearings, it was very clear to everyone there that there is precedent for providing some kind of compensation and recognition of the lost value, the lost opportunity. I just think that fundamental economics talks about lost opportunity and the importance of being able to measure that. To be able, with the stroke of a pen, to deny a legitimate municipality the opportunity for any kind of future

recognition of that loss is quite clearly very unfair and certainly wouldn't operate in any other kind of business transaction.

I would just like to say, in defending the need for Barrie to acquire this land—it's referred to in the area of the need for growth and recognizing Barrie's growth. But I must say that at different times, the former Minister of Infrastructure and the Minister of the Environment have referred to the same kind of growth as "sprawl." So I find it interesting that when it's Barrie it's growth, but when it's anyone else it's sprawl.

I can't say any more strongly how fundamentally important it is to support this motion because of the fact that, otherwise, you're setting another rather dangerous precedent, in my view, which is that one municipality can expect to be able to absorb part of another municipality with no recognition of the principle of compensation.

The Chair (Mr. Lorenzo Berardinetti): Mr. Rinaldi?

Mr. Lou Rinaldi: I would say at the outset that we're not prepared to support this.

I, too, know of municipalities that have been compensated. One of the municipalities that I represent came to an agreement some seven, eight, 10 years ago with their adjoining municipalities in another riding. It was a locally driven agreement. It wasn't just about dollars and cents; it was about some exchanges of services.

We talked about and we heard that day about loss of revenue from taxation, but municipalities are there to deliver a service to their community, and taxation is the need to be able to provide services that community needs. We never talk about the part of the savings from the Innisfil portion—I won't say the savings; the money they don't have to expend to service those lands anymore, which up to now they had to. So the taxation revenue should roughly balance out with the expenditures, if one wants to gear it down to that area.

The legislation allows, if municipalities wish, for compensation—not just compensation, as I mentioned a minute ago, but also for other intermunicipal agreements, whether it be for sewage, water, roads.

Also, as we know, Barrie is a fast-growing community, probably one of the fastest-growing in Canada. I would think that people are not constrained to work within those municipal boundaries, so as areas develop, I would think that there are opportunities not just for Innisfil, but for the whole Simcoe area—at least the surrounding area. Just this June, the Simcoe area strategic vision for growth was initiated, and that's not just for Barrie; it's for the whole area. Everybody in Barrie, Innisfil and the whole Simcoe area will probably benefit from that once that's collaboratively put together.

1400

I hope that instead of being heavy-handed from the top down—and I know it has been a long struggle. That's why we're here today. Normally, this is not needed, but it has been a long struggle for everybody concerned. That's why we're here today with this piece of legislation. But I would hope that, if this legislation is passed, as those

municipalities move forward, they'll be able to seek some commonality that they can work together on.

We heard just last week or the week before that those lands, in large part, were moratorium lands, as the years went by, to see how they could be best used down the road. So there was an intent that something might happen.

For these reasons, we're not prepared to support this. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Further debate? Mr. Prue.

Mr. Michael Prue: I have to say I'm disappointed, because my support of this bill hinges on this motion, so you've got me in a position where I was more than prepared to go along with the bill, provided there was compensation in it, but without the compensation, I, quite frankly, cannot do so.

I keep thinking back—and I know he's gone now—to a former minister of the government who talked about winners and losers and that the government is in the business of picking winners and losers. Well, you've done that today by what you've just said. You've picked a winner—the winner is Barrie; you've picked a loser, and the loser is Innisfil. Not one thing is going to happen in Innisfil's favour as a result of this decision. If there is one, please point it out. They're losing the land, they're losing the assessment, they're losing their ability to develop further as a community on lands that are going to be designated industrial or commercial, where there's a higher tax base, and their proud history since Confederation is being lessened. I can see why Barrie's the winner. They're going to get the land, they're going to be able to expand and they're going to have additional monies. There it is: You picked a winner and loser.

But more than just what a former minister said, I'm reminded of the old way in which people develop Siamese fighting fish. I don't know if you've ever noticed how Siamese fighting fish become fighting fish. They put two fish in a glass tank, they put a piece of glass in the middle so that the fish can't get at each other, and then they feed one fish but they don't feed the other one. They do that for days and weeks. They give one fish all the food and another one just enough to sustain itself. Then they take the glass out and the fish that wasn't getting the food attacks the other one viciously, and usually to his own death because he's weaker and smaller than the fish that has been given all the attention.

That's what you've done here. That's exactly what you're doing. I don't understand why the people opposite can't see this. This is going to fester in the wound of the people of Innisfil for 100 years. They're going to remember this as a day of infamy. They are going to remember when their land got taken away, they weren't compensated, and they were treated like that poor, losing Siamese fighting fish. If you want to do that, I'm sure that the people of Innisfil will never forget. I'm sure they will never forget. And I know you're probably not worried because they're represented by a Conservative now, but they will never forget what this government has done, nor will I.

The Chair (Mr. Lorenzo Berardinetti): Further debate? None? Then we'll vote on this amendment.

Mrs. Julia Munro: Recorded vote.

Ayes

Munro, Prue.

Nays

Balkissoon, Brownell, Pendergast, Rinaldi.

The Chair (Mr. Lorenzo Berardinetti): That does not carry.

On the next page, I think the motion is similar.

Mrs. Julia Munro: As it is, I'll withdraw it.

The Chair (Mr. Lorenzo Berardinetti): Thank you. It's withdrawn then.

We'll move on, then, to section 3. Sections 3 to 7: There are no amendments put forward in any of those sections. Can I take a vote together on them, on sections 3 to 7?

Mr. Michael Prue: Sure.

The Chair (Mr. Lorenzo Berardinetti): Shall sections 3 to 7 carry? All those in favour? Opposed? Carried.

We'll move on, then, to section 7.1. This is a new section, on page 3. NDP motion, Mr. Prue.

Mr. Michael Prue: I move that the bill be amended by adding the following section:

"Special development charge

"7.1(1) The city of Barrie shall levy a special development charge on the owners of annexed property to recover the cost of any required growth-related improvements in the town of Innisfil resulting from the development of the annexed lands.

"Same

"(2) The city of Barrie shall collect the special development charges and remit the payments to the town of Innisfil in a timely manner."

Mr. Chair, if I could, this is asking for a special development charge for that which has already taken place in the new potential growth area, and is simply asking that the residents of Innisfil not be stuck with the bill, or be able to collect what they've spent in advance before the land was taken over, in order to recoup some of their losses.

I don't expect any government support here, but it seems to me that the town of Innisfil has, for the longest period of time, done as much as they can in moratorium lands, albeit it's not as great as what they probably would have wanted to do. But they were wise and prudent in not developing and spending a lot more money, seeing the results here today.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion? Mr. Rinaldi.

Mr. Lou Rinaldi: Development charges in the municipalities are normally something that—councils of the local municipalities have to do certain studies—if they so

choose, I should say; it's not mandatory—to help to develop, with growth, monies for roads, water, waste water, transit, libraries and a number of other things. That's normally stemmed upon the rate of growth in that municipality and it's what the local community decides to do.

To impose a development charge on a different jurisdiction is not permissible now under the Development Charges Act as it stands. And I'm not so sure one would want to go down that road, because whatever growth happens in those new lands—say, if there were roads or bridges or transit or libraries—the new municipalities, if this bill is passed, folks from the surrounding areas would benefit. Some of those services don't have municipal lines that divide the jurisdiction. So I don't feel this is something that we, as a government, want to impose from one municipality to another.

Once again, those are the things that I think both Innisfil and Barrie—although not as successfully as one might want to think, in some cases—have been working on. I'm sure that if this legislation is passed, the two municipalities and the county of Simcoe would work collectively.

But, certainly, to impose development charges from one municipality to another, I don't think it's the right thing to do.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further debate? None?

Mr. Michael Prue: Recorded vote.

Ayes

Prue.

Nays

Balkissoon, Brownell, Levac, Pendergast, Rinaldi.

The Chair (Mr. Lorenzo Berardinetti): Okay, that's not carried.

Sections 8 to 11: There are no amendments, so we can vote on them together.

Shall sections 8 to 11 carry? Those in favour? Opposed? Carried.

Section 12 is the commencement. Shall section 12 carry? All those in favour? Opposed? Carried.

Shall section 13 carry? Those in favour? Opposed? Carried.

Then we go to the title. Shall the title of the bill carry? All those in favour?

Mr. Michael Prue: Recorded vote.

Ayes

Balkissoon, Brownell, Levac, Pendergast, Rinaldi.

Nays

Munro, Prue.

The Chair (Mr. Lorenzo Berardinetti): That carries. Shall Bill 196 carry?

Mr. Michael Prue: Recorded vote.

Ayes

Balkissoon, Brownell, Levac, Pendergast, Rinaldi.

Nays

Munro, Prue.

The Chair (Mr. Lorenzo Berardinetti): Shall I report the bill to the House? All those in favour? Opposed? Carried.

Thanks, everybody, for your assistance. The committee is now adjourned.

The committee adjourned at 1408.

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Journal des débats (Hansard)

Jeudi 19 novembre 2009



Standing Committee on Justice Policy

Interprovincial Policing
Act, 2009

Comité permanent de la justice

Loi de 2009
sur les services policiers
interprovinciaux

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 19 November 2009

Jeudi 19 novembre 2009

The committee met at 0933 in room 1.

The Chair (Mr. Lorenzo Berardinetti): Good morning and welcome to the Standing Committee on Justice Policy.

Today we're dealing with Bill 203, An Act to allow for better cross-border policing co-operation with other Canadian provinces and territories and to make consequential amendments to the Police Services Act.

SUBCOMMITTEE REPORT

The Chair (Mr. Lorenzo Berardinetti): The first item on the agenda is the subcommittee report dated November 2, 2009.

Mr. Dave Levac: Mr. Chairman?

The Chair (Mr. Lorenzo Berardinetti): Mr. Levac, yes.

Mr. Dave Levac: Thank you, Mr. Chairman.

Your subcommittee on committee business met on Monday, November 2, 2009, to consider the method of proceeding on Bill 203, An Act to allow for better cross-border policing co-operation with other Canadian provinces and territories and to make consequential amendments to the Police Services Act, and recommends the following:

(1) That the committee hold one day of public hearings at Queen's Park on Thursday, November 19, 2009.

(2) That the committee clerk, with the authorization of the Chair, post information regarding the committee's business one day in one English and French newspaper, where possible, in the following areas: Toronto, London, Ottawa, Hamilton and North Bay.

(3) That the committee clerk, with the authorization of the Chair, post information regarding the committee's business on the Ontario parliamentary channel and the committee's website.

(4) That groups be offered 15 minutes and individuals 10 minutes in which to make a presentation.

(5) That interested people who wish to be considered to make an oral presentation on Bill 203 should contact the committee clerk by 12 noon, Friday, November 13, 2009.

(6) That, if all groups can be scheduled, the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties.

(7) That, if all groups cannot be scheduled, each of the subcommittee members provide the committee clerk with

a prioritized list of names of witnesses they would like to hear from by 5 p.m., Friday, November 13, 2009, and that these witnesses must be selected from the list distributed by the committee clerk to the subcommittee members.

(8) That the deadline for written submissions be 12 noon, Friday, November 20, 2009.

(9) That the research officer provide the committee with examples of other provincial and state agreements regarding cross-border policing co-operation.

(10) That the administrative deadline for filing amendments be 12 noon, Monday, November 23, 2009.

(11) That the committee meet for clause-by-clause consideration on Thursday, November 26, 2009.

(12) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

That is my report from the subcommittee, Mr. Chair.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Is there any discussion? None? Do I have a motion to adopt?

Mr. Dave Levac: I move to adopt.

The Chair (Mr. Lorenzo Berardinetti): All those in favour? Opposed? Carried.

INTERPROVINCIAL POLICING
ACT, 2009

LOI DE 2009

SUR LES SERVICES POLICIERS
INTERPROVINCIAUX

Consideration of Bill 203, An Act to allow for better cross-border policing co-operation with other Canadian provinces and territories and to make consequential amendments to the Police Services Act / Projet de loi 203, Loi visant à permettre une meilleure coopération avec les autres provinces et les territoires du Canada en ce qui concerne les services policiers transfrontaliers et à apporter des modifications corrélatives à la Loi sur les services policiers.

MICHAEL EMPEIGNE

The Chair (Mr. Lorenzo Berardinetti): We have some deputations. The first one is Mr. Michael

Empeigne. I apologize if I didn't pronounce it properly. Please come forward and help yourself to some water, if you want to. Good morning.

You have up to 10 minutes for your presentation. If you don't use up the whole 10 minutes, then the committee may have some questions of you.

Mr. Michael Empeigne: I know.

The Chair (Mr. Lorenzo Berardinetti): Please identify yourself for the record. We keep a record, Hansard, and if you'd identify yourself, your name.

Mr. Michael Empeigne: I'm extremely shaky.

Mr. Dave Levac: Just relax. Just tell us your name.

Mr. Michael Empeigne: Michael. I can't even say it.

The Chair (Mr. Lorenzo Berardinetti): Perfect. Thank you.

Mr. Michael Empeigne: Empeigne. I have a bit of a problem.

The Chair (Mr. Lorenzo Berardinetti): Go ahead. You can speak.

Mr. Michael Empeigne: Oh, I know I can speak. I just get this way.

Mr. Garfield Dunlop: Don't feel nervous. Just go ahead and take your time. You've got 10 minutes whether you say anything or not.

Mr. Dave Levac: You want me to sit beside you? I'll help you, okay? Here we go. All you have to do is just tell us what you think.

Mr. Michael Empeigne: I know.

Mr. Dave Levac: Okay, so let's go. Is it a little scary?

Mr. Michael Empeigne: Especially with all the people.

Mr. Lou Rinaldi: Pretend we're not here.

Mr. Dave Levac: How about you talk to me? What do you think about the bill?

Mr. Michael Empeigne: I wish I'd brought the bill with me.

Mr. Dave Levac: That's okay. It's to help the police go from—

Mr. Michael Empeigne: I know that.

Mr. Dave Levac: Oh, okay. So then tell me what you think about it.

Mr. Michael Empeigne: I read it entirely.

Mr. Dave Levac: Perfect.

Mr. Michael Empeigne: What do I think?

Mr. Dave Levac: Yes.

Mr. Michael Empeigne: Let's say, across the border—

The Chair (Mr. Lorenzo Berardinetti): Sir, if you want to, you can just talk in the microphone so all of us can hear what your presentation is.

Mr. Dave Levac: Just to make sure they can hear it. That's all. There you go.

Interjection.

Mr. Michael Empeigne: Well, it's a good idea, and one, I guess—

The Chair (Mr. Lorenzo Berardinetti): Mr. Empeigne, if you want to, we do also have the option—if you want to write down and give to us, by tomorrow at noon, your submission or your thoughts, you can do that

as well. It would be distributed to everyone. Would you prefer that, to do a written submission?

Mr. Dave Levac: He's giving you a chance to write it down on a piece of paper or have somebody write it down for you. Collect all your thoughts, put them on a piece of paper and give it to us. Do you want to do it that way?

Mr. Michael Empeigne: I guess that would be okay.

Mr. Dave Levac: Okay, we'll have somebody work with you.

Mr. Michael Empeigne: It's—

Mr. Dave Levac: It's intimidating.

Mr. Michael Empeigne: Especially with the—it's true.

Mr. Dave Levac: Yes. Why don't we do it that way?

Mr. Michael Empeigne: Okay.

Mr. Dave Levac: Okay, I'll have somebody work with you after.

Mr. Michael Empeigne: Okay. It's true.

Mr. Dave Levac: Of course it is. It is very intimidating. We used to have trouble—

The Chair (Mr. Lorenzo Berardinetti): Mr. Empeigne?

Mr. Dave Levac: He has agreed to write it down, Mr. Chairman.

The Chair (Mr. Lorenzo Berardinetti): Okay, good. You can write it down, and we will make sure that everyone gets a copy of it. Okay?

Mr. Michael Empeigne: Okay.

The Chair (Mr. Lorenzo Berardinetti): Thanks for coming out.

Our second deputation for 9:45 is Oriel Varga.

Interjection.

The Chair (Mr. Lorenzo Berardinetti): Oh, she—we need a couple of minutes?

Mr. Dave Levac: Mr. Chairman, can we take a five-minute recess? That will give her time to get set up, and then we can get somebody to help Michael.

The Chair (Mr. Lorenzo Berardinetti): Okay, so we'll take a five-minute recess and then we'll recommence in five minutes.

The committee recessed from 0942 to 0948.

ORIEL VARGA

The Chair (Mr. Lorenzo Berardinetti): The committee is now back in session, so I call our next deputation. Oriel Varga, if you'd like to come forward. Feel free to have a seat right there. There's water there as well.

Good morning, and welcome. Just before you start, I'll just explain to you that you have up to 10 minutes to speak, and if you don't use up all your time speaking, then we might ask you some questions.

Ms. Oriel Varga: Okay. I'm going to use my full 10 minutes, thanks.

I want to first of all thank you for the ability to speak today. I've been following this bill and the discussion very closely, and I want to make sure that there are

proper checks and balances in place. I'm very concerned about the apparent loopholes in this bill. Those who wield a great deal of power, such as to give criminal charges and to hold a gun and use it, need to use their powers appropriately and ultimately need to be held accountable for their actions if there's abuse of that power. Where there are little or no ramifications for actions, there is a potential for abuse. One can even say it invites such abuse. The bill says that there can be an investigation in a location where an allegation of abuse took place, but the officers are not subject to discipline. This is very disconcerting.

0950

Let us consider a case example such as the one given by Mr. Lorenzo Berardinetti, where, say, someone says they have been wrongly arrested in Manitoba or Toronto—we need to look at it both ways. Let's consider it: If a person is wrongfully charged in Manitoba by Toronto police who are acting as Manitoba's full officers, and there is a complaint about police abusing the citizen's rights, there is presumably an investigation and public inquiry that can take place in Manitoba. But since it took place in Manitoba, there's no public pressure here in Ontario, and there's no reason to believe that there will actually be an inquiry here in Ontario.

The person will need to hire lawyers, who will participate in an inquiry which is held in Manitoba but does not include discipline. The Toronto officer is only compelled to participate in the investigation if there is an existing agreement in place extending the same rights and protections given to other officers in Manitoba. Even if this agreement exists and he or she testifies, this cannot be used against him or her if there is a disciplinary investigation here in Ontario.

If there is an investigation, and I say "if" because it's not clear there would be one, then the complainant and their lawyers from Manitoba would have to participate in the investigation here in order to get justice and, ultimately, discipline for something that happened in another province with its own rules and procedures under a supervisor who may or may not be responsible for the investigated officer's actions.

We have to ask: Who can even afford this? And why don't we just keep it simple and accountable, and have the investigation and discipline where the arrest took place, under whose jurisdiction the officer was presumably acting?

So what happens when a person is arrested in Ontario by police from Manitoba? How is this an assurance for citizens here that their rights will be protected when officers come here and may or may not be trained in Ontario law and procedures, but are given full rights and responsibilities of police officers in Ontario? What assurances are given that if they participate in the arrest of a citizen, they will provide disclosure of their notes and come for trial? Again, if there is no possibility of discipline for Manitoba police who act as police officers in Ontario when there is abuse of powers, the Ontario citizen will need to travel to Manitoba to get justice. Again, who can afford this?

There was a lot of discussion during first and second readings about the reason for this legislation. Some of you even say that this bill is precisely to provide such protections, which presumably are currently not in place. This is a troubling argument, as we already have provisions for interprovincial policing, but they do not give full status to the special constables, so their powers are somewhat limited. It also takes time to process, so there is some thought and oversight and care that takes place, which also amounts to a certain degree of checks and balances while it's being processed.

If we increase the potential to move officers from one province to another tenfold or a hundredfold by making it only seven days or effective immediately, this is clearly about something else than to ensure protections for the public. If we want these protections, we can simply ensure that the wording of the TPA is that special constables are subject to investigation under the SIU, which is what the early researchers, Bilton and Stenning, who presented the background discussion for the conference in 2003, where this legislation was first drafted, subtly suggested as a solution back in 2001. Clearly, ensuring proper protections is not the reason for this legislation, otherwise it would give us the power to discipline officers who come to Ontario.

Then we must ask ourselves: What is this bill really about? Peter Tabuns asked the same question, pointing out, "You have to ask: If, in fact, we aren't currently encountering difficulties, if we aren't in a situation where investigations seem to be interrupted or in any way actually blocked or obstructed, then what is the real function of this bill?"

The speed with which to mobilize officers to come here or to move across the province is likely the real reason. This gives the potential for, at a moment's notice, say, the Olympics in Vancouver or the G8 or the Pan Am Games in Toronto to have a large mobile and accessible police force. This is, of course, not spelled out for the public, but if you go after the paper trail to where this legislation originates, its intention is made far more apparent.

In the commentary of the notes of the conference, they actually point out that it is for massive policing for large events such as the G8. The intentions of the bill were also hinted at by a number of people in their discussions during first and second reading. Mr. John O'Toole, for example, says, "Certainly the Olympics in Vancouver will be an interjurisdictional issue.... As well, there is the summit next year in Muskoka, I think it's the G8 summit in Canada, a big, big deal."

The speed at which this is being pushed through is also suspect, especially given that we are not far away from the Vancouver Olympic Games in the G8, and ensuring due diligence as this is pushed through is an issue of concern that was raised by a number of members about this bill.

Although I am sure the intention is to help with investigations across borders, the legal rights of hot pursuit and appointment of special officers already allow for all of this. Thus, the key intention of the bill and/or its

effect will be to create a highly mobile interprovincial police force that can be sent to Nova Scotia, Quebec or Vancouver etc. at a moment's notice. This bill is a huge change to policing, not a minor one, and will create new legal precedents. This is where questions of accountability and proper checks and balances are of considerable importance, and the apparent lack thereof troubling.

I will list eight reasons why we should be cautious:

(1) Lack of community consultation and input. Why has there not been extensive effort to consult with community groups? This is not clear, especially given the potential scope of change.

(2) There are many holes in this legislation. This is even observed by John O'Toole, who says that this is like a "piece of track that's missing, and you can't get from A to B." I would say that there is enough track missing to derail a train here. It leaves many questions unanswered: Who appoints; whom are the officers responsible to; whose jurisdictions do the officers belong to; who has the power to fire; who has accountability?

(3) Lack of accountability: an inquiry or an investigation, but not a right to discipline? This does not make me feel safe as a citizen.

(4) No assurances of training in local law and procedures.

(5) What happens if Ontario police refuse to violate Charter rights, say, in Vancouver, during the Olympics? For example, we already have a clear precedent here in Toronto that you can't have a full ban on signage and that this is unconstitutional—this is in *Toronto (City) v. Quickfall*, 1994. In Vancouver, the city recently passed a bylaw on ambush marketing, that you can't hold up, say, anti-Olympic signs in the street, and police can even go into people's homes and remove them from windows. This is clearly a Charter violation. What happens if police in Toronto refuse to issue tickets and fines, given that here this would be considered unconstitutional? There is currently a constitutional challenge in the courts around this.

What happens if a police officer from Ontario doesn't even want to go? The bill is a discussion between those appointing officers and the official here. Perhaps the police union should be concerned about this.

(6) Whom are they responsible to if an officer, say, comes from Nova Scotia: his supervisor here or the one in Nova Scotia? Technically here, because we appoint them. But if, as they say, this is also because they're pursuing an investigation that may have relevance in Ontario, is it not the supervisor, the person in Nova Scotia, that's in charge of the investigation? So what resources will they use? Will they be in police stations? Will they have access to those resources? What about protections to private information of citizens that gets shared between provinces? This is not clear, and when things are not clear, there is a potential for confusion, misunderstanding and misuse of powers.

(7) The bill invests a great deal of power into the police chief. I'm assuming that the appointing officer is a police chief, which is reasonable to assume. This is a lot of power when what is at stake is potentially to bring

hundreds or thousands of police officers here or move them to another province. And if hundreds or thousands of officers get moved to Vancouver for the Olympic Games, what are the local responsibilities of police here? Will they not be needed here? This leaves much to be desired.

The bill has far-reaching consequences to communities and civil liberties of hundreds and thousands who may come out and express their inalienable Charter rights to expression, association and assembly, and yet the community was not at the table. The lack of discussion and awareness of this bill brought me to speak today. As a member of No Games Toronto, I am well aware of what's going on in Vancouver. Billions of taxpayer dollars are being spent, and millions on policing—upwards of \$6 million for the Games, and counting. The cost of security will be \$900 million, according to a recent, October 25, article by Peter Zimonjic, and about 4,500 Canadian Forces, 5,000 private security guards and 7,000 RCMP and municipal officers from jurisdictions from across the country. That's the key point here.

The Chair (Mr. Lorenzo Berardinetti): Ms. Varga, I just wanted to let you know you have about one minute left.

Ms. Oriel Varga: One minute? Oh, dear. Can I have two?

There are simultaneous massive crackdowns on civil liberties already taking place. The RCMP are visiting people's friends, families, neighbours, employers—all the way to Toronto, I had a visit from the RCMP for being in touch with a number of open critics of the Games in Vancouver. What is the assurance that local police will not be doing the same and what are the assurances that the citizen's rights are protected?

We also need to discuss the issue of who will be paying the cost of this mobile police force. After all, the Toronto community was not asked if we wanted to spend \$2.4 billion on the Pan Am Games. The community was not asked whether we could issue a blank cheque for a two-week party we can't afford. During a recession when we are already in massive debt, we desperately need the money to go directly, not in some convoluted manner, to affordable housing, the TTC and education.

My final point is that abuses—

The Chair (Mr. Lorenzo Berardinetti): Ms. Varga—

Ms. Oriel Varga: I'm sorry, can I have another half a minute?

The Chair (Mr. Lorenzo Berardinetti): Half a minute? Okay. With the committee's indulgence, half a minute.

Ms. Oriel Varga: This is my final point. My final point is that the abuses of police officers' police powers, when they occur, do not happen uniformly. Police typically protect the interests of those already in power, and it is usually marginalized communities—the homeless population, First Nations communities and racialized communities—who are targeted and impacted most by the increases in police powers. Yet these communities are largely not here—they're not here at all, I would argue—

to speak about the potential of abuse that this new and far-reaching legislation presents. We need to table this until there is full community discussion.

The Chair (Mr. Lorenzo Berardinetti): That completes your time.

Mr. Dave Levac: On a point of order, Mr. Chairman: It sounds to me like you have not been able to cover all the points that you wanted to cover. If you have a written construct of your full presentation, I would welcome that to be submitted to the committee for consideration.

The Chair (Mr. Lorenzo Berardinetti): You can submit that, your written submission, by tomorrow at 12 noon. That's the deadline.

Ms. Oriel Varga: So 12 noon? And who do I submit it to?

The Chair (Mr. Lorenzo Berardinetti): The clerk will give you the information.

Mr. Dave Levac: Thank you, Mr. Chairman.

The Chair (Mr. Lorenzo Berardinetti): Thank you.

Is Mr. Owen Leach here? I don't think Mr. Owen Leach is present. He was scheduled for 9:55; we're now at 10:02. We've had no communication at all today from him, so if he does show up, we can do the same thing and ask him to give a written submission, because it's 10:02.

As Chair, I'm going to move that we adjourn until clause-by-clause consideration on Thursday, November 26, 2009.

Mr. Dave Levac: Mr. Chairman, again, if we can get in touch with Mr. Leach to let him know that he would have an opportunity to submit in writing—because he took the time to register.

The Chair (Mr. Lorenzo Berardinetti): We'll try to do that.

We're now adjourned.

The committee adjourned at 1002.

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Journal des débats (Hansard)

Jeudi 26 novembre 2009

Standing Committee on Justice Policy

Interprovincial Policing
Act, 2009

Comité permanent de la justice

Loi de 2009
sur les services policiers
interprovinciaux



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 26 November 2009

Jeudi 26 novembre 2009

*The committee met at 0906 in committee room 1.*INTERPROVINCIAL POLICING
ACT, 2009LOI DE 2009
SUR LES SERVICES POLICIERS
INTERPROVINCIAUX

Consideration of Bill 203, An Act to allow for better cross-border policing co-operation with other Canadian provinces and territories and to make consequential amendments to the Police Services Act / Projet de loi 203, Loi visant à permettre une meilleure coopération avec les autres provinces et les territoires du Canada en ce qui concerne les services policiers transfrontaliers et à apporter des modifications corrélatives à la Loi sur les services policiers.

The Chair (Mr. Lorenzo Berardinetti): I call this meeting of the justice policy committee to order. Good morning, everybody.

We're dealing today with Bill 203, An Act to allow for better cross-border policing co-operation with other Canadian provinces and territories and to make consequential amendments to the Police Services Act.

Are there any comments, questions or amendments to any section of the bill, and if so, to which section? We'll start with section 1. In our package here, I believe there's a government motion. Mr. Levac?

Mr. Dave Levac: I move that clause (b) of the definition of "extra-provincial commander" in section 1 of the bill be amended by striking out "a municipal or regional police force" and substituting "a municipal, regional or other police force".

The quick rationale for that, Mr. Chairman, is that we want to be able to capture First Nations. Because of the unique circumstances behind the assignment of chiefs, we believe that this clause would be helpful for First Nations.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Is there any further discussion? None?

Then we'll take a vote on this amendment. All those in favour? Opposed? That carries.

Shall section 1, as amended, carry? All those in favour? Opposed? Carried.

There are no amendments for sections 2 to 11, so I'll put the vote together.

Shall sections 2 to 11 carry? All those in favour? Opposed? Carried.

Section 12: On page 2, there's a government motion. Mr. Levac.

Mr. Dave Levac: I move that subsection 12(4) of the bill be struck out and the following substituted:

"Content of request

"(4) The request must include the following:

"1. The information required by paragraphs 1 to 7 of subsection 4(3).

"2. Any other information that may be prescribed.

"3. An explanation of how the operation or investigation could be compromised if the extra-provincial commander were required to request the appointment under part II."

It may not be appropriate under urgent circumstances. Since there are two different circumstances, one is urgent and the other is basic, that's the reason that we wanted to put this in; it might not be appropriate, under urgent circumstances, under part III, to provide all of the information that's prescribed in the standard process under part II. So we just needed to separate those two under the special circumstances.

The Chair (Mr. Lorenzo Berardinetti): Any further debate? None?

We'll take a vote. All those in favour of the amendment? Opposed? That carries.

Shall section 12, as amended, carry? All those in favour? Opposed? Carried.

There are no amendments from sections 13 to 31—I'm sorry; there is one in section 20. I think the NDP has one regarding section 20.1. So we'll put together sections 13 to 20 because there are no amendments for those sections.

Shall those sections carry, sections 13 to 20? All in favour? Opposed? Carried.

Now, there's a new section here, and we had a motion that was photocopied this morning, I believe. I have it here, and it's an NDP motion. Mr. Hampton, did you wish to speak to it?

Mr. Howard Hampton: Yes. I move that part IV of the bill be amended by adding the following section before the heading "Local Commander's Directions":

"Instruction in applicable law

"20.1(1) Before an appointee performs any police duties in an area of Ontario, the local commander of the police force or detachment that provides police services

in that area shall ensure that the appointee receives instruction in the applicable provincial and municipal laws, unless the operation or investigation in which the appointee is participating could be compromised by the delay that would result from the instruction.

"Same

"(3) If the operation or investigation in which the appointee is participating could be compromised by the delay that would result from the instruction required by subsection (1), the local commander described in that subsection shall ensure that the appointee receives the instruction as soon as reasonably possible after he or she starts performing police duties in that area."

Now, one of the government members, I think Mr. Levac, referred to this in part earlier on. Policing on a First Nations reserve in remote northern Ontario is quite different from policing in Thunder Bay, is quite different from policing in Toronto and is quite different from OPP policing. I think one of the things we would want to do is to protect the public and to protect police officers from situations where they may have no experience, no instruction, and frankly no knowledge. This is to ensure that that actually happens.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? Mr. Levac.

Mr. Dave Levac: For some clarity, Mr. Hampton, are you aware of how often these laws are applicable in the provincial and municipal law circumstance?

Mr. Howard Hampton: Let me give you an example from my own constituency. The OPP recently took over municipal policing in the city of Kenora. The city of Kenora has a very large aboriginal population, and I think it would be an understatement to say that the Ontario Provincial Police are facing a real challenge in terms of procedures, working with the public, working with First Nations leadership, something that, I think it would be fair to say, many of the OPP officers have had no experience of before. It's a very different policing environment.

I would say bringing someone to downtown Toronto—let's use a possible example, the Pan Am games. Right?

Mr. Dave Levac: Yes.

Mr. Howard Hampton: Bringing police officers from another jurisdiction to downtown Toronto or Burlington or Hamilton in the instance of the Pan Am Games, which is a very real possibility—I think you're going to want a section like this in the bill to deal with that kind of eventuality.

Mr. Dave Levac: I'm intrigued. Let me offer you this: I believe that the appointing official, under the circumstances you described, can and has the authority to make training a prerequisite and a condition of the appointment. That's even in front of what you're talking about, because they do have the authority to do that. Those conditions can be sensitive to exactly the scenarios you're describing, and I would respectfully say, duly noted. I have some similar circumstances to that which you're describing—

Mr. Howard Hampton: Sure do.

Mr. Dave Levac: —and that was one of the questions I asked.

With regard to the precondition—because in the example I'll cite you, that was happening with the transference of OPP officers, even within the service, coming from as far away, in a cascading effect, as London, Woodstock and even further. As you know, what happens is, as they cascade some, they might take people from Thunder Bay and push them down to the Ottawa area and then push them down to the London area, and then push them down to the area that I'm referencing.

So my comment is, I believe it's captured in the appointment process, but with a duly noted observation. I don't think we can support the amendment, but I would take it under advisement that it be part of the condition and the prerequisite of the appointment before it happens.

Mr. Howard Hampton: I think what's important here is that this identifies whose duty it is. This puts a positive duty on the local commander: "The local commander ... shall ensure." There are no ifs, ands or buts, or "this should have been done at the regional level" or should have been done somewhere else. This is the legal responsibility of the local commander.

Mr. Dave Levac: Chair, can you give me two minutes?

The Chair (Mr. Lorenzo Berardinetti): Sure. Okay, fine.

Mr. Dave Levac: Are you okay? Two minutes? Give me two minutes.

Mr. Howard Hampton: Yes, sure.

The Chair (Mr. Lorenzo Berardinetti): Yes, a short recess. Okay, thank you. Recess for a few minutes.

The committee recessed from 0916 to 0917.

The Chair (Mr. Lorenzo Berardinetti): We're back in session now. Mr. Levac?

Mr. Dave Levac: Thank you for the challenge, Mr. Hampton. It is believed that we will still not support it, except to say that you've highlighted the concerns that have been raised and they will be pursued vigorously to ensure that the concerns that you've raised will be met.

Mr. Howard Hampton: I will ensure they're pursued vigorously.

The Chair (Mr. Lorenzo Berardinetti): All right. Shall we then take a vote on this motion? All those in favour of the motion in front of us? Opposed? It does not carry.

That would have created a new section. We'll move on, then, to sections 21 to 31. There are no amendments filed, so I'll put the question: Shall sections 21 to 31 carry? All those in favour? Opposed? Carried.

Under section 32, on page 3, I think it is, of our package, there is a government motion. Mr. Levac?

Mr. Dave Levac: I move that section 32 of the bill be amended by adding the following subsection:

"Subject to prescribed terms and conditions

"(2.1) An indemnification under subsection (1) or (2) is subject to any prescribed terms and conditions."

This would help ensure that the crown or the municipal police service board would only have to indemnify an extraprovincial police officer or service in appropriate circumstances. It's an indemnification clause.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion? None? So we'll take the vote. All those in favour? Opposed? Carried.

Shall section 32, as amended, carry? All those in favour? Opposed? Carried.

Shall section 33 carry? All those in favour? Opposed? Carried?

There's another motion that was handed out this morning; it's with regard to section 34. It's an NDP motion. Mr. Hampton, I'll let you comment on it.

Mr. Howard Hampton: I think it's self-explanatory in the context of the section—

The Chair (Mr. Lorenzo Berardinetti): I'm sorry. If you could please move the motion.

Mr. Howard Hampton: I move that section 34 of the bill be amended by adding "Subject to the approval of the Standing Committee on Government Agencies" at the beginning.

The Chair (Mr. Lorenzo Berardinetti): Any discussion or debate?

Mr. Dave Levac: Yes. If Mr. Hampton is using the self-explanatory note, then the self-explanatory issue here is that once an appointment has been approved, they are not subject to any further regulatory process. The police services appointments are not government agencies, and therefore it is not reasonable to assume that the Standing Committee on Government Agencies should have approval of a police appointment. We want to make sure that's separated, and we can't support the amendment as it is.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? If none, we'll take a vote. All those in favour of the motion? Opposed? That does not carry.

Shall section 34 carry? All those in favour? Opposed? Carried.

I think sections 35 to 40 have no amendments to them, so I'll put the question. Shall sections 35 to 40 carry? All those in favour? Opposed? Carried.

Section 41 on page 4: Mr. Levac.

Mr. Dave Levac: I move that clause 41(1)(a) of the bill be struck out and the following substituted:

"(a) prescribing additional information to be included in a request for an appointment under Part II or III;"

Again, this is one of those urgent circumstances versus standard circumstances, and we needed to separate those, that they be separated in terms of the permissions.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion on the motion? None? We'll vote on the motion. Shall the motion carry? All those in favour? Opposed? Carried.

On page 5, there's another motion which also deals with section 41. Mr. Levac.

Mr. Dave Levac: I move that subsection 41(1) of the bill be amended by adding the following clause:

"(c.1) prescribing terms and conditions for the purposes of section 32;"

The proposed amendment would amend the regulation-making authority to allow the minister to prescribe terms and conditions to which the indemnity obligation of the bill would be subject. This would ensure that the crown or municipal service previous to the—the previous amendment is taken care of by extraprovincial police services in appropriate circumstances.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? I'll put the question. Shall the motion carry? All those in favour? Opposed? Carried.

Shall section 41, as amended, carry? All those in favour? Opposed? Carried.

Shall section 42 carry? All those in favour? Opposed? Carried.

Section 43: On page 6, there is an amendment put forward.

Mr. Dave Levac: I move that subsection 2(2) of the Police Services Act, as set out in subsection 43(3) of the bill, be amended by striking out the portion before clause (a) and substituting the following:

"Officer appointed under the Interprovincial Policing Act, 2009 deemed to be a member of a specific police force

"(2) For the purposes of sections 49 and 132 to 134 of this act, section 25.1 of the Criminal Code (Canada) and any designation of a police force made by the Solicitor General under section 2 of the Controlled Drugs and Substances Act (Police Enforcement) Regulations (Canada), a person appointed as a police officer under the Interprovincial Policing Act, 2009 is deemed to be,"

That is the section. However, section 25—this is the rationale. Section 25.1 does not authorize the commission of offences under the Controlled Drugs and Substances Act—this authority is provided under regulation of the Controlled Drugs and Substances Act. So this is housekeeping to ensure that we're following the laws.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion or debate? None? So I'll put the question: Shall the motion carry? All those in favour? Opposed? Carried.

Shall section 43, as amended, carry? All those in favour? Opposed? Carried.

Sections 44 to 51: I don't see any amendments there, so I'll put the question: Shall sections 44 to 51 carry? All those in favour? Opposed? Carried.

Regarding section 52: Mr. Levac.

Mr. Dave Levac: This is a notice.

The government recommends voting against section 52 of this bill. There is a reason for this. If the committee wishes to remove the entire section of the bill, we can do so by parliamentary procedure instead of doing amendments. That's why we're advising voting against this section.

Since the Independent Police Review Act of 2007 was proclaimed—these sections were put into the original bill before the bill was proclaimed. Now that the bill has been proclaimed, this section is rendered useless.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? Shall section 52 carry? All those in favour?

Mr. Dave Levac: Well, no. Yes. No. We're against. Yes. No. Yes. Maybe.

Mr. Howard Hampton: Make up your mind.

Mr. Dave Levac: Whatever you want.

The Chair (Mr. Lorenzo Berardinetti): So I'll put the question again regarding section 52: Shall section 52 carry? All those in favour? Opposed? Okay, that section does not carry.

Section 53: Mr. Levac.

Mr. Dave Levac: The very same premise that we did for the previous section, we're going to do it again. So whatever we voted for, that's what we want to do.

But, again, just to confirm: Now that the other bill was proclaimed, we don't need this section, and we're advising voting against it.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? So I'll put the question: Shall section 53 carry? All those in favour? Opposed? Okay, that does not carry.

Section 54—Mr. Levac?

Mr. Dave Levac: The very same thing.

The Chair (Mr. Lorenzo Berardinetti): All right. Any further discussion or debate? So I'll put the question: Shall section 54 carry? All those in favour? Opposed? That does not carry.

I don't see any amendments between sections 55 and 60, so I'll put that together as one question. Shall sections 55 to 60 carry? All those in favour? Opposed? That carries.

Section 61—Mr. Levac?

Mr. Dave Levac: I move that subsection 90(5) of the Police Services Act, as set out in section 61 of the bill, be struck out and the following substituted:

"Exception, officers appointed under the Interprovincial Policing Act, 2009

"(5) This section does not apply to a police officer appointed under the Interprovincial Policing Act, 2009."

This amendment clarifies that section 90 does not apply and thus the investigation continues. There's a concern that if this were to stay as is, there's a possibility of losing investigations under the fact that this person would no longer be a police officer.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion on the amendment? So I'll put it to a vote. All those in favour of the amendment? Opposed? That carries.

Shall section 61, as amended, carry?

Mr. Dave Levac: There's another amendment on 61. Or is it just 61.1? It's 61.1, sorry.

The Chair (Mr. Lorenzo Berardinetti): We'll finish 61 first. So I'll put the question again: Shall section 61, as amended, carry? All those in favour? Opposed? Carried.

The next motion is a government motion. Mr. Levac?

Mr. Dave Levac: I move that part VIII of the bill be amended by adding the following section:

"61.1 Part V of the act is amended by adding the following section before the heading 'Performance Audits':

"Termination of officers appointed under the Interprovincial Policing Act, 2009

"90.1 This part applies to a police officer appointed under the Interprovincial Policing Act, 2009, even after his or her appointment under that act is terminated."

Again, this clarifies that part V applies even if an officer's appointment is terminated. Again, it's to ensure the continuity of investigation.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? So I'll put the question: Shall the motion carry? All those in favour? Opposed? Carried.

Shall section 61.1 carry? All those in favour? Opposed? Carried.

Between sections 62 and 64, there are no amendments, so we'll vote on those three sections together. I'll put the question: Shall sections 62 to 64 carry? All those in favour? Opposed? Carried.

Section 65: Mr. Levac.

Mr. Dave Levac: Again, the government recommends voting against section 65 of the bill. Since the Independent Police Review Act of 2007 was proclaimed, this section, again, is no longer needed, and it's the very same rationale as for the previous removals of sections.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion or debate? I'll put the question: Shall section 65 carry? All those in favour? Opposed? That does not carry.

Shall section 66 carry? All those in favour? Opposed? Carried.

Shall section 67 carry? All those in favour? Opposed? Carried.

Shall the title of the bill carry? All those in favour? Opposed? Carried.

Shall Bill 203, as amended, carry? All those in favour? Opposed? Carried.

Shall I report Bill 203, as amended, to the House? All those in favour? Opposed? Carried.

Thank you for everyone's co-operation. The meeting is adjourned.

The committee adjourned at 0930.

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Official Report of Debates (Hansard)

Thursday 3 December 2009

Journal des débats (Hansard)

Jeudi 3 décembre 2009

Standing Committee on Justice Policy

Ontario Labour
Mobility Act, 2009

Comité permanent de la justice

Loi ontarienne de 2009
sur la mobilité
de la main-d'oeuvre



Chair: Lorenzo Berardinetti
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICY

Thursday 3 December 2009

COMITÉ PERMANENT
DE LA JUSTICE

Jeudi 3 décembre 2009

The committee met at 0903 in committee room 1.

The Chair (Mr. Lorenzo Berardinetti): Good morning, everybody. I call this meeting of the Standing Committee on Justice Policy to order. Today on Thursday, December 3, we're dealing with Bill 175, An Act to enhance labour mobility between Ontario and other Canadian provinces and territories.

SUBCOMMITTEE REPORT

The Chair (Mr. Lorenzo Berardinetti): The first item to be dealt with is the subcommittee report. Do I have someone to read that? Mr. Levac.

Mr. Dave Levac: Your subcommittee on committee business met on Wednesday, December 2, 2009, to consider the method of proceeding on Bill 175, An Act to enhance labour mobility between Ontario and other Canadian provinces and territories, and recommends the following:

(1) That, as per the time allocation motion, the committee hold one day of public hearings at Queen's Park on Thursday, December 3, 2009, during the committee's regular meeting times.

(2) That groups be offered 15 minutes and individuals 10 minutes in which to make a presentation.

(3) That interested people who wish to be considered to make an oral presentation on Bill 175 will be scheduled on a first-come, first-served basis until all allotted presentation times have been filled.

(4) That the deadline for written submissions be 5 p.m. on Thursday, December 3, 2009.

(5) That the research officer provide the committee with highlights of the Agreement on Internal Trade, highlights or a copy of the Quebec-Ontario labour mobility agreement, and information on any European Community trade agreements regarding labour mobility and procurement policies.

(6) That the administrative deadline for filing amendments, as per the time allocation motion, be 12 noon, Friday, December 4, 2009.

(7) That, as per the time allocation motion, the committee meet for clause-by-clause consideration on Monday, December 7, 2009, after routine proceedings.

(8) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

So submitted to Mr. Chairman.

The Chair (Mr. Lorenzo Berardinetti): Is there any debate? Do we have a motion to adopt the report?

Mr. Dave Levac: So moved.

The Chair (Mr. Lorenzo Berardinetti): All those in favour? Opposed? Carried.

ONTARIO LABOUR
MOBILITY ACT, 2009LOI ONTARIENNE DE 2009
SUR LA MOBILITÉ
DE LA MAIN-D'OEUVRE

Consideration of Bill 175, An Act to enhance labour mobility between Ontario and other Canadian provinces and territories / Projet de loi 175, Loi visant à accroître la mobilité de la main-d'oeuvre entre l'Ontario et les autres provinces et les territoires du Canada.

ONTARIO FEDERATION OF LABOUR

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our deputations for this morning. Our first one is our 9:05 presentation, the Ontario Federation of Labour. We have Terry Downey, executive vice-president. Good morning, and welcome to committee. Just so you know the rules, we have 15 minutes allocated for your presentation. Any time that's not used in your presentation will be allocated between the three parties to ask questions. So welcome.

Ms. Terry Downey: Thank you. Good morning. My name is Terry Downey, and I'm the executive vice-president for the Ontario Federation of Labour. With me also is Pam Frache, the director of education, who has done extensive research on Bill 175 for the federation.

The OFL represents over 700,000 workers in Ontario in both the private and public sectors.

I want to express our extreme dismay that the Ontario government has decided to limit debate on Bill 175. One day of hearings in Toronto is insufficient to engage the many diverse communities throughout Ontario. As a result of this decision to limit debate, many concerned Ontarians have been shut out of the process altogether.

Bill 175 has broad-ranging and sweeping implications, not only for workers but for the public. Bill 175 gives legal effect to aspects of the Agreement on Internal Trade, a non-binding agreement which itself has not been

subjected to meaningful public scrutiny. We are further concerned that most Ontarians have not been informed that Bill 175 will make Ontarians liable for millions of dollars in fines—as high as \$5 million.

We are very concerned about the impact it will have on Ontario's ability to insist on high-quality training standards for regulated trades and professions. Too often, we forget that licensing standards were developed in response to very real and demonstrated health, safety and quality-of-service problems. It would be detrimental to Ontario if the lessons learned from the past, including tragic ones, were lost. Indeed, different jurisdictions often have different standards, reflecting legitimate differences in the needs of the population. The Ontario Federation of Labour believes that limiting further government abilities to meet the needs of the citizens is unwise and contrary to democratic principles.

While we've been assured by some in government that Bill 175 will not compromise Ontario's legal rights to set standards as appropriate, we do not believe that Bill 175 and the Agreement on Internal Trade—which I'll refer to as AIT—as they are currently written, will safeguard the public interest, especially since it will be up to AIT-established tribunals, beyond the reach of democratically elected representatives, to determine the validity of any exemptions secured under Bill 175 and the AIT. After all, under the AIT, exemptions can and will be challenged and adjudicated, not by elected governments but by the tribunals established under the AIT.

While the Ontario government has faced challenges in enforcing its own laws and regulations—under the Employment Standards Act and even the trades qualification and certification act—we are hard-pressed to understand how the province expects to monitor and enforce the validity of credentials issued by private, for-profit institutions elsewhere.

In fact, recent media reports, particularly those in the *Toronto Star*, have highlighted Ontario's challenge in ensuring that the credentials issued by private, for-profit colleges in Ontario actually reflect high-quality training and appropriate curriculum. Monitoring the quality of training offered out of province or even out of the country by private institutions, as contemplated under Bill 175, seems even more unlikely. We are therefore concerned about the potential risk posed to the public when the credentials of those trusted to provide services cannot be adequately verified.

0910

We are extremely concerned about how Bill 175 and the imposition of the Agreement on Internal Trade will affect the red seal program for authentic trades. While Bill 175 asserts that it will not negatively affect the red seal program, we remain unconvinced. The government must acknowledge that in the event that a lower standard of qualification is approved for a trade that is also among the red seal trades—and this is possible, since not every province participates in the red seal program—the lower standard will inevitably prevail in practice. This cannot but undermine the red seal program and produce an out-

come which is decidedly contrary to this government's stated support for the program.

We are concerned about the labour market impact that Bill 175 will have on Ontario workers who are already facing stiff competition for scarce employment. Reductions in training standards and increased competition for scarce jobs will contribute to a downward pressure on wages. Given the fact that wages in Canada have been virtually stagnant in real terms for more than 25 years, and the prospect of further wage reductions in a province hit hard by the recession and struggling to maintain consumer spending, any policy that may undermine the jobs or earnings prospects of Ontarians must be rejected.

Ontario's jobless recovery ought to be a serious concern for this government and should underline the need for a comprehensive good-jobs-for-all strategy, yet Bill 175 threatens to undermine positive employment-related initiatives undertaken by elected representatives. We fear, for instance, that policies encouraging local hiring or even affirmative action hiring for particular equity-seeking groups may well contravene the labour mobility provisions outlined in either the AIT or Bill 175. For example, Bill 175 clearly states: "No municipal governmental "regulatory authority shall require that an individual reside in its geographic area of jurisdiction as a condition of eligibility for employment, if the individual resides in a province or territory of Canada that is a party to the Agreement on Internal Trade."

As a strategy for community development, Bill 175 is seriously flawed, and we are further concerned that even the Ontario government's own Green Energy Act could be at risk under Bill 175 and the AIT.

In the broad context, we continue to have serious concerns about the short-term and long-term implications of giving legal effect to any aspect of the AIT.

The labour movement has been on record with your government opposing the establishment of any agreement that bears resemblance to the BC-Alberta trade, investment and labour mobility agreement, TILMA. In fact, public scrutiny stopped the spread of TILMA to other provinces since governments were loath to introduce trade agreements that would provoke public outcry. Instead, it appears that the previously innocuous Agreement on Internal Trade has become the vehicle to bring TILMA in through the back door of every province in Canada.

In correspondence to us on our concerns about erosion of training standards under TILMA, Economic Development and Trade Minister Sandra Pupatello wrote the following, "It is my understanding that the BC and Alberta governments have retained the right to regulate, provided they do not create unjustified barriers to trade. This seems a fair and balanced approach in theory. However, this balance will remain an open question until the dispute settlement mechanism works in practice."

Yet, before meaningful evidence of how this dispute resolution mechanism works in practice has been gathered, the Ontario government signed on to the AIT containing the very provisions included in TILMA, and while the AIT may not be legally binding, Ontario has

taken an extraordinary step in creating legislation, Bill 175, to make it so.

To date, Ontario is only one of four provinces that have chosen to try to enshrine the AIT in legislation. A majority of provinces appear to be choosing non-legislative, non-legally binding paths. Will Ontario be among a minority of provinces who have legally committed themselves to \$5-million penalties? Given the fact that the Ontario government is facing a \$25-billion deficit, and given the fact that Ontario could not meet its retraining obligations as originally promised in the Second Career strategy, making the province legally liable for multi-million dollar penalties seems folly, especially since other provinces have chosen not to open themselves up to such financial risk.

Bill 175, we are told, has been tabled to address labour mobility issues. Yet we have received only anecdotal evidence that there are significant barriers to labour mobility, hardly enough to warrant the imposition of extreme legislation such as Bill 175. There is, however, one labour mobility issue that the Ontario Federation of Labour has drawn attention to. It is, notably, an issue upon which both the Ontario and the federal government have been deafeningly silent. This is the area of financial measures to ease the financial burden for workers who do need to travel out of province to secure employment. As a result of devolving employment insurance part II benefits to the provinces, no level of government has been willing to step up to the plate to provide the necessary and adequate financial support and tax measures that could assist workers who do need to travel out of province for employment.

We support labour mobility for all workers, but such mobility must be in the interests of workers themselves, not in the interests of employers whose real interests too often lie in reducing training standards and the wages associated with such standards. High training standards go hand in hand with safe workplaces and safe communities. Workers should have the financial support to move as necessary and the income support to pursue the training they need, from literacy, language and basic skills to high-quality apprenticeship training in authentic trades. Most importantly, the government they elect should defend their interests and develop employment and training strategies that provide good jobs for all.

To summarize, the Ontario Federation of Labour is extremely concerned with the lack of transparency and formal public dialogue that has characterized Bill 175 and other AIT-related initiatives. We believe that the bill is seriously flawed and an unnecessary intrusion into the legitimate and legal rights of Ontarians to establish standards that meet the needs of the population.

The Ontario Federation of Labour is calling on the government to:

(1) Conduct meaningful regional public hearings, not only on the implications of Bill 175 but also on the implications of the Agreement on Internal Trade and other interprovincial trade deals;

(2) Ensure that no aspect of the Agreement on Internal Trade is given legal effect in Ontario;

(3) Oppose and neutralize any financial penalties that may be imposed on the province or local government or agency under the Agreement on Internal Trade;

(4) Protect the red seal program by exempting red seal trades from the AIT.

Thank you. That's our submission.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That uses up all of the time. We have maybe one minute, if there are questions from any of the three parties here. Very quickly, anything from the Liberal side? Let's do a quick rotation here.

Mr. Dave Levac: Yes.

The Chair (Mr. Lorenzo Berardinetti): Go ahead, Mr. Levac.

Mr. Kevin Daniel Flynn: I think, if there's only a minute left, we're not going to get a meaningful answer.

The Chair (Mr. Lorenzo Berardinetti): All right. Mr. Bailey?

Mr. Robert Bailey: If you could only make a couple of improvements to the bill, what would they be?

Ms. Pam Frache: I think one of the key things is to have a provision along the lines of the legislation in British Columbia that says that no aspect of this legislation will give legal effect to the Agreement on Internal Trade, and that's not extraordinary. That's what exists in the British Columbia legislation. And we would eliminate all references to the financial penalties associated with the Agreement on Internal Trade.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Marchese?

0920

Mr. Rosario Marchese: I just want to thank you, and I want to tell you that I believe that 99.9% of the population doesn't have a clue what this bill is about; 99.9% of the population doesn't even know what the agreement between Quebec and Ontario was. There were no discussions. Other than Papatello writing an article in the Toronto Star, we don't have a clue what the government did. A closure motion was moved on this bill on Monday, and on Thursday we have hearings. Normally we advertise these things, and the government simply hasn't given us that chance. I just want to tell you thank you very much, and whatever you can do to let your folks know how decent this government has been would be great.

Ms. Terry Downey: We agree, and we've been sounding the sirens on this. In fact, since Friday, our office has been getting many calls about the concerns on this from employers who want to create green jobs in this province.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation this morning.

CERTIFIED GENERAL ACCOUNTANTS OF ONTARIO

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our 9:20 presentation. Certified General Accountants of Ontario: Doug Brooks, chief executive officer.

Mr. Dave Levac: On a point of order, Chair: If we could ask the deputants to provide us with a copy of their written submission, we'd like to have that for the record.

The Chair (Mr. Lorenzo Berardinetti): Okay, I'll ask the committee clerk to get that.

Good morning. Welcome to the committee.

Mr. Doug Brooks: Good morning. Thank you for granting the Certified General Accountants of Ontario the opportunity to speak with you this morning—

The Chair (Mr. Lorenzo Berardinetti): If you could, just for the record, provide your name.

Mr. Doug Brooks: My name is Doug Brooks. As CEO of CGA Ontario, I'm here representing the association, 19,000 CGAs and 8,000 aspiring certified general accountants who are enrolled in the CGA program of professional studies. Let me begin by providing you with some background on CGA Ontario and the skill level of certified general accountants.

CGA Ontario is a self-governing body that grants the exclusive rights to the CGA designation, and controls the professional standards, conduct and discipline of its members and students in the province of Ontario. CGAs follow the profession's generally accepted accounting principles and generally accepted auditing standards. They adhere to a national code of ethics and rules of professional conduct. They meet ongoing professional development requirements, and those in professional practice carry mandatory liability insurance. We are a self-regulating body that takes our duty to protect the public interest very seriously.

Certified general accountants are accounting and finance professionals with a difference. They've been trained to look beyond the numbers, drawing on their broad learning and individual strengths to facilitate problem solving and to provide leadership across industries and within changing business realities.

CGAs have worked hard to achieve a respected designation through rigorous academic training and intense real-world experience. CGAs can be found in every sector of the economy, from education to government, from banking and finance to manufacturing, hospitality and entertainment.

Some prominent certified general accountants you may be familiar with include: the Globe and Mail Report on Business's just-announced CEO of the year, Sergio Marchionne, president and CEO of Fiat; Joe Pennachetti, city manager for the city of Toronto; MPP Bruce Crozier; and MP Yasmin Ratansi. They are a diverse group, indeed.

Certified General Accountants of Ontario has been a long-time supporter of the Agreement on Internal Trade, as have all of our colleagues across the country, because labour mobility across provincial lines makes sense. Removing unnecessary regulation increases Canada's productivity and competitiveness. If the work is the same, qualified workers from one province should be able to do that same work in another province.

My primary goal today is to draw your attention to the Ontario government's intention to implement a barrier to

labour mobility for public accounting under the terms of the Agreement on Internal Trade—a barrier that is inconsistent with the agreement's stated objective of allowing individuals who are certified by a regulatory authority in one jurisdiction to be certified for that occupation anywhere in Canada, without additional education or experience requirements.

I want you to consider why this barrier to public accounting remains and who it really protects, and I want you to support our request to eliminate it. Finally, I want you to bear with me as I take you through a rather complicated story about public accounting and labour mobility.

Public accounting is what the accounting profession refers to as "attestation"; that is, an accountant, independent of the organization, expresses assurance in respect of financial information of an enterprise.

For more than 40 years, CGA Ontario has advocated for access to public accounting licences for CGAs in Ontario, because they are qualified to do the work. Such access would increase choice for consumers and increase competition among those offering their services.

We, and probably those of you who were in the Legislature at the time, thought we had achieved access in 2004 when the Public Accounting Act was passed. That act resulted in the formation of a reconfigured Public Accountants Council and identified the Certified General Accountants of Ontario as a designated body under the act. Five years later, we remain unauthorized to issue licences to qualified CGAs as we work our way through a complex process to meet the regulations set by the council, regulations that mirror those of our major competitor. Ontarians are still left with a single choice for public accounting services today, as they were prior to 2004 when the Legislature voted for change. This is the state of public accounting in Ontario—the only jurisdiction in Canada that excludes CGAs from offering public accounting services.

Two weeks ago, the Quebec government approved new public accounting regulations, allowing qualified CGAs to offer complete public accounting services to for-profit and publicly listed companies. These regulations eliminate Quebec's barrier to interprovincial trade and labour mobility and will benefit companies that do business in both Quebec and other parts of the country. It enables Quebec's CGAs to offer the full range of services that they have been trained to provide. It also ensures greater competition in Quebec among accountants offering their services to the public.

CGA Ontario's pre-certification standards include national course content and exams, combined with work experience requirements. No matter where you study to become a certified general accountant within Canada, the same thorough and rigorous qualification standards apply uniformly across all provinces and territories. The public can be satisfied that CGAs across the country meet the highest standards of education and professional conduct. The association's national qualification standard is sufficient for Quebec, as it is for every other province and territory in Canada except Ontario.

Jerry Minni, a CGA who has been auditing public companies in BC for more than 15 years, can now do that work in Quebec, in Newfoundland and in Alberta—everywhere in Canada but Ontario. Clearly the work isn't different, yet Ontario continues to restrict mobility and competition in public accounting in Ontario by placing public accounting on its list of exceptions for labour mobility.

The government has notified CGA Ontario that the reason for placing public accounting on its list of exceptions is because allowing free entry of qualified accountants from other parts of Canada to practise public accounting in Ontario would ignore the licensing regime the government has put in place in Ontario. This means that the province of Ontario's public accountant licensing regime is allowed to prevent qualified professional accountants from being licensed in Ontario even though they are certified as qualified to practise public accounting in other provinces and territories in Canada. Additional qualification requirements would be necessary in Ontario, a position that is contrary to the fundamental principle of labour mobility's mutual recognition of professional qualifications from one jurisdiction to the other that this bill commits to. Twelve of 13 jurisdictions in Canada are already prepared to accept each other's public accounting qualifications. These are qualifications that allow certified general accountants to practise their profession across jurisdictional boundaries. Ontario will be the sole exception, insisting on maintaining a barrier that an independent trade panel previously ruled is inconsistent with the provisions of the AIT. That was in 2001.

In August 2005, an AIT trade panel reached the same conclusion in the case of Quebec, calling on the provincial government to change its laws to ensure there was no restriction to the occupation of public accounting for qualified professional accountants. Quebec now complies. Ontario does not.

The government also claims this barrier is needed to protect consumers. However, the government has not provided any evidence that public accountants who are licensed to practise public accounting in their home jurisdiction would put consumers at risk if they were to practise public accounting in Ontario. CGAs are entitled to audit federally regulated banks and insurance companies, furthering the point that neither consumers nor capital markets are at risk.

Given the fact that a CGA has the right to practise public accounting in every jurisdiction in Canada other than Ontario, we are left wondering why. Does it make sense that Jerry Minni, that CGA in BC, who can and does audit publicly traded companies in his home province, can't do that work in Ontario?

Premier McGuinty said that full labour mobility will help Ontario workers and industries succeed in a challenging economy by strengthening our competitiveness and productivity, removing barriers to opportunity. CGA Ontario agrees. He applauded full labour mobility as good news for Ontario. More Canadian workers would be

free to move and find work where opportunities exist or where their skills are needed. Ontario employers would have a broader pool of qualified candidates and enjoy similar processes for hiring workers from other parts of Canada. CGA Ontario agrees. Yet Jerry Minni and his CGA colleagues across the country are left out because of a stated need to protect consumers which remains unsupported, and a desire to enforce made-in-Ontario regulations which runs contrary to the act.

0930

Ontario is the only jurisdiction in Canada that does not recognize CGAs' right to practise public accounting, thereby stifling competition, to the detriment of Ontario businesses large and small. Ontario is the only jurisdiction that will have an exception for public accounting under the AIT, leaving itself open to yet another challenge. I encourage you to uphold the full labour mobility Premier McGuinty promised. I respectfully ask you to remove the exception for public accounting from the bill.

Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That leaves about five minutes for questions, roughly two minutes per party. We'll start with the Liberal Party.

Mr. Kevin Daniel Flynn: Thank you, Mr. Brooks, for appearing today. Could you explain the regulatory authority that exists currently in Ontario in the accounting field? How are you governed in Ontario today?

Mr. Doug Brooks: The Public Accountants Council.

Mr. Kevin Daniel Flynn: What decision have they come to as to the issue that you've brought before us today with regard to the ability of CGAs to perform certain tasks?

Mr. Doug Brooks: I believe that the council has submitted its point of view to the government, which we were made aware of, which supported a legitimate objective—so a barrier.

Mr. Kevin Daniel Flynn: Seeing as the process that's envisioned under the act is a dynamic process, were that to change in the future, would it not make sense that the act would change?

Mr. Doug Brooks: Sorry. I'm not sure I understand your question.

Mr. Kevin Daniel Flynn: If the regulatory authority that we were talking about a second ago were to change its opinion, would it not then follow that the act would then change also to follow that opinion?

Mr. Doug Brooks: I think if we hearken back to the principles laid out in labour mobility, the real issue here is that practising public accountants in 12 other jurisdictions—so 12 of 13—who are qualified to do that work and are doing that work are not able to do that work in Ontario. That's inconsistent.

Mr. Kevin Daniel Flynn: I understand that you have a concern with the regulations and the legislation as it exists today, and I think the point that I heard you say is that this isn't going to make it any better for you. It is pretty much the status quo as to how your profession is allowed to practise in Ontario today.

Mr. Doug Brooks: Our designation; that's correct.

Mr. Kevin Daniel Flynn: And you saw this as an opportunity to perhaps change that?

Mr. Doug Brooks: For the members who practise or want to practise in Ontario, we are having to comply with the regulations as set out by the Public Accountants Council. This is an issue for members across this country who do this work and have done this work for many, many years in provinces where they're qualified to do that work. The provisions around the Agreement on Internal Trade suggest that those individuals should be able to practise in this province regardless of our internal or Ontario-specific regulations.

The Chair (Mr. Lorenzo Berardinetti): We must move on, then. Sorry, Mr. Bailey?

Mr. Robert Bailey: Explain to me: How does a multi-national company that's based in Ontario and that does business all across Canada—how would this work for them? Or say they're doing business in Ontario but they are based somewhere else, like Quebec; their head office is in Quebec but they're doing business in Ontario. How does this work for them? You couldn't do their books with this new legislation?

Mr. Doug Brooks: This is about public accounting; we're not talking about people in industry, just for clarity. But it would suggest that a person who's the auditor for that Quebec-based company and who happens to be a CGA could not audit any of those satellite companies, organizations, in Ontario.

Mr. Robert Bailey: So this would certainly hamper business, especially if you were a company that did business all across the country in Canada, the other 12 jurisdictions.

Mr. Doug Brooks: It may limit your choices about who does your public accounting work, who attests to your financial statements, and I think for Ontario businesses it certainly reduces the amount of choices that are available for public accounting services.

The Chair (Mr. Lorenzo Berardinetti): We're going to have to move on. Mr. Marchese?

Mr. Rosario Marchese: You're an accountant, so you might be the best person to answer this question. There are \$5-million penalties for those ministries or municipalities or non-governmental agencies that do not comply with the bill. Do you find that's a bit too much? Why would they do that?

Mr. Doug Brooks: What I will say is that the original AIT provisions really didn't have any teeth in terms of a fine, so under the previous ruling in 2001, and in 2005 for the province of Quebec; under the new provisions of the Agreement on Internal Trade, the fines are real. So if this happens to be found by an independent trade panel, there would be a fine that the province of Ontario would be facing.

Mr. Rosario Marchese: I understand that. So you agree? You like the idea of having \$5-million fines? Maybe we should increase them to \$10 million.

Mr. Doug Brooks: What I do agree with and support is the notion of labour mobility and people being able to move—

Mr. Rosario Marchese: No, I understand that. So you think the fine is okay and maybe we might even increase it to make sure that people do comply?

Mr. Doug Brooks: I think the spirit of the agreement is to comply and that the provisions for fines are there probably to keep people committed to the agreement.

Mr. Rosario Marchese: In some professions, there are standards that everybody agrees to. So you may have regulatory boards across the country saying, "Yes, this is one standard that we all agree to." What if you have a trade and/or profession where the standards are different? What do you do then?

Mr. Doug Brooks: Again, I think the whole focus of the agreement is on the work that is done in maintaining standards. We have national standards that comply with international standards. Our profession is a little bit different in that there are three significant bodies across Canada, but we're all guided by, as I said, generally accepted accounting principles, auditing standards—

Mr. Rosario Marchese: I wasn't talking about you. I was talking about, if you have a different profession and/or trade where the standards are different, what do you do? Is this bill good in that regard?

Mr. Doug Brooks: Yes, I think the bill lays out very clearly the answers to those questions in terms of putting consumers at risk, for instance—

The Chair (Mr. Lorenzo Berardinetti): I'm sorry; time is up. We're a bit beyond your time, actually. Thank you for your presentation.

We'll move on to our next deputation, which is the Canadian Union of Public Employees.

Mr. Robert Bailey: Chair, could we get a copy of their presentation?

The Chair (Mr. Lorenzo Berardinetti): There's a request for a copy of the last presentation. Mr. Brooks?

Mr. Rosario Marchese: Mr. Brooks, do you have a copy to give?

Mr. Doug Brooks: Yes.

CANADIAN UNION OF PUBLIC EMPLOYEES

The Chair (Mr. Lorenzo Berardinetti): Good morning and welcome. Could you please identify yourselves for the record, and, again, you have 15 minutes for your presentation.

Mr. Fred Hahn: Thank you. My name is Fred Hahn. I'm the secretary-treasurer of CUPE in Ontario. With me today is Archana Rampure, who is a researcher with our organization, as well as Stella Yeadon, who is a legislative liaison with CUPE Ontario.

CUPE represents some 220,000 members across the province working in the broader public sector, in health care—hospitals, paramedics, long-term care and home care; in municipalities, hydro, utilities and libraries; in social services like child care, mental health, developmental services and community-based agencies; and in the education sector, from early learning to elementary and secondary schools, and in post-secondary institutions

across the province. Many of our members are also trades workers who are certified to practise their trade. Others are professionals who are regulated by a variety of legislation and their regulatory colleges and associations as a result of their jobs. And of course, as citizens of the province, our members are all affected by standards and regulations that are in place to protect the public of Ontario.

We are here today on behalf of our members to talk to you about our serious concerns with Bill 175, the act to enhance labour mobility between Ontario and other Canadian provinces and territories. I'm going to try to be as brief as I can. I know there is a relatively short amount of time for presentations—10 or 15 minutes—so I'm going to try to do the top 10 reasons why we think this piece of legislation should be withdrawn by the government.

Problem number 1: We have to start with concerns about the speed with which this legislation is being rushed through the process and the detrimental impact that will have on democracy. There was closure moved on Monday. We were informed yesterday afternoon that there were going to be hearings today. The real concern that we're trying to figure out is, why the rush? The Canadian Constitution guarantees us as citizens of our country the right to actually live and work in any province or territory. We don't believe there are real barriers to labour mobility in the province, and any issues that were related to labour mobility have been voluntarily dealt with through measures and interprovincial standards like the red seal program for skilled trades workers. What we really need is province-wide hearings on these kinds of measures that will have, we think, very far-reaching impacts on the province, and on the democratic process in which we pass legislation.

0940

Problem number 2: The government just passed Bill 183, establishing a college of trades. Part of that new college's mandate is going to be to establish standards for various trades, working with the various stakeholders. But Bill 175 will require Ontario regulators, including the new college of trades and other regulatory bodies, colleges, and professional associations to recognize certification from other jurisdictions that have lower standards. Bill 175 requires that Ontario has to harmonize their standards with other standards across the country, and we see this as a code word, quite frankly, for a race to the bottom. The word "reconcile" is actually used in the legislation, but what the bill doesn't spell out is that the only real way to reconcile Ontario's standards with standards from other jurisdictions that are lower is that they would have to mirror those lower standards. This piece of legislation, if it's passed, will not carry any legal weight in any other jurisdiction. So, it's hardly as though a regulatory authority from Ontario could ask any other jurisdiction's regulatory authority to raise its standards to Ontario's levels. There should be no doubt in anyone's mind: The impact of this bill will be a race to the bottom in terms of occupational standards and regulations. We're

not looking at scenarios where best practices from across the country are actually going to form the basis of national standards. Instead, what we're looking at is the institutionalization of the lowest standards from other provinces, in our own. There are a series of exemptions that the government has listed for various professions, and what we're trying to figure out is why certain professions should be exempted. If this is such a good idea, then why would we exempt any at all? One of them would be the example of water technicians. We all remember the tragedy that befell our province in terms of the Walkerton example. It is a prime example of why it is we need, in our province and in local communities, the ability to make standards that make sense for our citizens. This bill would make those kinds of things impossible to continue.

Problem number 3: Some people suggest that this bill could address the plight of foreign-trained professionals, many of them immigrants who are unable to practise their professions in our province. But let's be clear: This bill will do absolutely nothing for foreign-trained professionals. In fact, what it will do for newcomers is put them at the back of a longer line, because they will now have to be waiting behind professionals from other provinces and jurisdictions who have different qualifications and who will now need to be recognized as a result of this piece of legislation. It will harm foreign-trained professionals who are already residents of our province.

Problem number 4: Bill 175 imposes expectations on regulatory bodies and non-governmental organizations that are unrealistic. They would have to investigate certification standards, not only in Ontario but now across the entire country. Ontario's occupational and professional regulatory bodies just aren't equipped to make those kinds of assessments and decisions. Most of them are funded by voluntary or compulsory fees paid by members. The irony, we believe, is that the members of these colleges will end up paying higher fees in order to enable those same regulatory bodies to do investigations on certifications that will ultimately be in direct competition with the members of those associations.

Problem number 5: Bill 175 also threatens Ontario's regulatory bodies with fines of up to \$5 million if they can't demonstrate within a very narrow framework of exemptions why somebody from another region should be deemed to be unable to work here. It's not enough that they have to evaluate the enterprises in Ontario; as I said, they now have to evaluate enterprises from across the country. A \$5-million fine is a huge hammer over which people will be increasingly pressured to simply lower standards to the lowest common denominator.

Problem number 6: the Agreement on Internal Trade. We believe this piece of legislation actually will implement this agreement into law. This agreement is not currently law in the province of Ontario. If the government of Ontario wants to implement this into law, it should have explicit and discrete public hearings on whether or not the population of our province believes

it's the right thing to do. The Labour Mobility Act, as you've already heard, in British Columbia, explicitly excludes the Agreement on Internal Trade. This piece of legislation refers to it time and again. Let's be clear about something: The Agreement on Internal Trade is kind of like what NAFTA is for North America. It is our position, and the position of many, that NAFTA is partly responsible, if not wholly responsible, for the job losses that we've had in our province—some 200,000 jobs between October 2008 and October 2009. In the face of a job crisis of this magnitude, we find it incomprehensible that the government might be pushing through a piece of legislation, without proper consultation, that would weaken job security—the little that is left—for the members of our province.

Problem number 7: People actually don't want this kind of legislation, and I can say this to you with great confidence, because unlike the government, we actually engaged in a tour across the province. We engaged with people, we listened to them and we talked to them. We did it with the Council of Canadians, a coalition partner. We went to Ottawa, Kitchener, Toronto, Sudbury, London, Windsor, Kingston and Hamilton. In each and every one of these communities, the hundreds of people who showed up were quite clear that they would reject these kinds of pieces of legislation and internal trade agreements that actually benefit corporations and not people, not local communities.

Problem number 8: Unemployment in Ontario is at a record high. The labour statistics for October 2009 mark it at 9.3%. In the context of what is being suggested here, with unemployment even higher in places like Labrador and PEI, we know that this will increase competition for jobs in our province. What we need is not labour mobility legislation. What we need is a real, local jobs strategy for our province.

Problem number 9: It's not going to help our economy. There's no doubt it's a happy prospect for some companies and corporations that increasing jobs at a time of great unemployment will actually put downward pressure on wages and benefits. Let's be clear: We're not saying here that jobs should be reserved only for people from Ontario, but we simply point out that any alleged skills shortage that may be used by some to support the quick passage of the labour mobility act is simply fictitious. There are thousands of people in our province who are currently unemployed, who would be more than willing to have a job and would happily take these jobs. The concern, if there is one, about skills and training: It's a government responsibility to offer retraining, as was mentioned previously by the Ontario Federation of Labour.

Problem number 10: Passing this bill will make it impossible for municipalities and other government agencies to set up programs that need to address specific local needs and concerns. Preferential hiring from target communities would be seen, we believe, as a barrier to labour mobility. Government procurement and hiring need to be used as instruments of social policy, not just

an expression of market forces. Offering preferential hiring to people at risk, to students in the summer: These are the very policies that we need to look to further pursue in the midst of an economic crisis in our province, particularly one that harshly impacts some demographics of our province more than others. We believe, as do all of the people who came to our tour dates across the province, that Ontario-specific standards and regulations are a net benefit to the people of our province. There's agreement that Ontario has been a strict regulator in the past. We believe these high standards have safeguarded the public. We believe that we must have a jobs solution that doesn't increase competition for jobs in our province, but rather creates training opportunities to put Ontarians who are currently unemployed, who've been hit hard by our recession, back to work.

On behalf of our more than 220,000 members in the province, I am urging each and every one of you on the justice committee to vote against this piece of legislation. We often come before committees—in fact, I've been here three times in the last six weeks—on various pieces of legislation, and we talk to people about seeking amendments. I want to be clear that in its current form, this bill is unacceptable and we don't believe that any amendments will make it acceptable. We think the government needs to go back to the drawing table, to involve communities and stakeholders, to have a real discussion about how these kinds of pieces of legislation would have huge impacts in our province.

I want to thank you for your time and attention.

The Chair (Mr. Lorenzo Berardinetti): Just one brief minute per party. We'll start with the Conservative Party. Mr. Bailey.

Mr. Robert Bailey: Thank you for your presentation. I support what you said about public hearings. I've been involved in some discourse in the last couple of weeks about public hearings about taxation matters and other issues. I'm sure any time a government makes any kind of changes, whether it's with labour legislation or tax implications, there should be public hearings, so I advocate on behalf of that. If you can impress upon the government to do that, I'd support you.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move to Mr. Marchese.

Mr. Rosario Marchese: Thank you, Fred. I think this government is committed to passing it and they're doing it in quick haste.

One of the concerns we have is that the onus is not on the individual who comes from a province that might have a lower standard to prove that they are capable; the onus is reversed. It's put on the receiving province to show that there are problems, in a variety of ways, including safety concerns, and that puts a tremendous responsibility on the province, given the context of a \$5-million fine. They have to go and find out whether these people are indeed qualified. I'm sure you have a comment on that.

Mr. Fred Hahn: It's not, in fact, just the province. There are dozens of regulatory bodies, non-governmental

organizations, municipalities, universities—all of these organizations would have to be able to figure out ways to demonstrate that there were reasons why they wouldn't accept qualifications from somebody from another jurisdiction. With a \$5-million fine, and not having that capacity in these organizations, we believe they will simply change their standards to recognize whatever standards that person has.

The Chair (Mr. Lorenzo Berardinetti): Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you, Mr. Hahn, for coming today, and thank you for making your point so clearly.

The bill was introduced on May 5, and as I understand it, it's been in the public realm now for almost 10 months. So when you say it's being rushed through, I'm not sure I'd share your opinion on that.

You talked about the waste water technicians and the fact that we've exempted them. I was trying to understand the point that you were trying to make. On one side, you're saying that you think it's a race to the bottom. I think it's a race to the top, and the evidence I would have for that is, when we looked at waste water technicians, we thought, no, the Ontario standard is higher and should be higher, and we're not going to let anybody practise that trade in Ontario unless they meet that higher standard. Surely that's an example of a race to the top. But you seem to be using it from the perspective that somehow it was lowering the standards, and I didn't follow that logic.

Mr. Fred Hahn: I guess from my perspective, on the issue of the public realm, one day of public hearings announced two days before, in my view, isn't actually allowing it to be fully in the public realm for public consultation.

Let me talk to you about water standards. If the bill in its current form is such a darn good idea, if we should really enhance labour mobility across regions and provinces, if we have these barriers that we should remove, then why is it that we would exempt any job? I think you've raised a perfect example. We put standards in place in this province that are higher than they are in other places. We did it for very good reasons, because people died. So we have to be able to protect those jobs, because if we didn't, what this bill would do is force those standards to disappear. You've exempted a series of jobs. What about all the other ones that haven't been exempted? What about the impacts that will happen there? This is our problem and our concern.

Mr. Kevin Daniel Flynn: Can you point to one example where that's happening? Tell me a trade—

The Chair (Mr. Lorenzo Berardinetti): Time is up. I'm sorry. I have to intervene here. We've given everyone 15 minutes, and I just want to be fair with this. I do apologize. Maybe you can have a discussion outside. I want to be fair to all parties.

Interjections.

Mr. Fred Hahn: I'd be happy to.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your time.

Our next deputation was a 9:50 one to be confirmed, and that was not filled in, so we'll go to our 10:05 deputation. I'm just going to ask, is the Registered Nurses' Association of Ontario here? They're not here. I would suggest that we just recess until 10:05 to see if they do show up at that time, and if they don't, then we'll recess until this afternoon. So we're recessed until 10:05.

The committee recessed from 0953 to 1004.

REGISTERED NURSES' ASSOCIATION OF ONTARIO

The Chair (Mr. Lorenzo Berardinetti): The committee is now back in session. It's now 10:05. I'd like to welcome the Registered Nurses' Association of Ontario to our committee. Good morning and welcome.

Ms. Doris Grinspun: Good morning. My name is Doris Grinspun. I'm the executive director of the Registered Nurses' Association of Ontario, RNAO.

RNAO is the professional body for registered nurses who practise in all roles and sectors across Ontario. Our mandate is to advocate for healthy public policy and for the role of registered nurses in shaping and delivering health services.

With me today is Rob Milling, the director of health and nursing policy at RNAO.

We are here to express the strong concerns that nurses have about Bill 175, the Ontario Labour Mobility Act, 2009.

First, I want to say something about trade deals in general. Bill 175 fulfills an obligation dating back to 1994 and the signing of the Agreement on Internal Trade by Canadian governments. The AIT, like the trade deals before and after it, and most recently the deal that Ontario signed with Quebec several months ago, was negotiated behind closed doors, with no transparency and no input from the public. We have expressed these concerns in public forums before. Sadly, the limited public hearings that this bill is seeing today are yet another example. A bill that has such far-reaching implications for social, environmental and health care policies and programs, as well as nursing and all other professions—and yet the public is not hearing enough about it. Such legislation should have thorough public consultation across the province.

Too often, these trade deals are about deregulation and making it easier for private interests to reap the benefits of potential business and prevent governments from acting in the public interest. It robs their space, whether it's our public not-for-profit health care system, or child care, or protecting our environment.

Two quick examples: Canada's ban on the gasoline additive MMT was reversed in the face of a NAFTA challenge. Under NAFTA, Dow has challenged Quebec's ban on the harmful substance 2,4-D. Both bans were implemented to protect public health.

We count on our government to act in the public interest, providing us with health care, education, essential services, and protecting us from harm. By opening

the door to deregulation, trade agreements shift power away from the public interest and toward the private interests of individual investors and profit-seekers.

Nurses, and most Canadians, do not want regulations governing the practice of health professionals reduced to the lowest common denominator, but we are concerned that Bill 175 pushes exactly in that direction.

Proponents of Bill 175 describe it as a tool to enhance labour mobility between Ontario and other provinces and territories. The RNAO supports the free movement of persons within Canada and the right of qualified persons to work in their chosen profession across Canada. But Canadians already enjoy the constitutional right to live and work where they want. They don't need this bill for that.

By guaranteeing the right to have one's credentials recognized in other Canadian provinces or territories, Bill 175 is the beginning of a slippery slope, one that can undermine the capacity of the college—in our case, the College of Nurses of Ontario—to regulate professions. In our view, it's more than a slippery slope; it's reality if this bill is passed.

In fact, Bill 175 applies to nurses, and the patients we serve, in a very direct way. Section 33 specifically amends the Regulated Health Professions Act, 1991, to eliminate any barriers established by the college that may prevent someone with equivalent qualifications from working in Ontario.

1010

As we read this provision, we were shocked by its implications for RN preparation in Ontario. As we understand it, if an RN without a baccalaureate degree from another jurisdiction—like, for example, Manitoba—applies to the College of Nurses of Ontario and is not accepted, she or he would be able to complain to her own provincial or territorial government. That government could, in turn, challenge the Ontario government and, if the complaint is upheld, the government of Ontario could be liable for a penalty of, we understand, up to \$5 million. Then, the government will be able, in turn, to recoup the amount of that penalty from the college itself.

What this means, *de facto*, is that the College of Nurses would be paralyzed, because of prohibitively large penalties—and perhaps that's the intension of the bill—from doing their legislated mandate of protecting the public. Faced with not being able to afford the economic consequences, the CNO will feel obliged to accept all applicants from other jurisdictions. RN credentials from other jurisdictions would be then accepted whether or not they met the Ontario baccalaureate entry-to-practice requirement. This is a serious concern.

As you know, based on strong evidence of improved client outcomes, the Ontario Conservative government introduced the baccalaureate requirement in 2001, with our absolute support, and the evidence continues to mount in favour of this requirement. Nursing is a knowledge profession, and it's about time we realized that. This bill actually puts that in question, and it's very offensive. Nurses have the knowledge, competencies and

skills ever in demand when caring for patients with increasingly complex and acute needs. The ramifications are serious and damaging to the public.

If out-of-province RNs were able to enter Ontario without meeting provincial entry-to-practice standards—they can move, but currently must meet Ontario standards, as you know—this would undermine Ontario's move to baccalaureate entry to practice. This would dilute the share of Ontario RNs who were baccalaureate-prepared and also provide a perverse incentive for some nursing students to get their credentials in jurisdictions with the least-demanding educational requirements—again, damaging our patients. The real effect would be a downward harmonization of educational standards to the lowest common denominator, which would compromise the quality of care Ontarians receive from RNs. There is no doubt about that. Ontario RN students would be held to a higher educational standard than some of their non-Ontario counterparts. This also speaks to fairness, or the lack of it. This would be a huge step backwards. This is not the time to relax professional entry-to-practice requirements, and we ask you not to support it.

I wish to emphasize that nursing students, in general, recognize the advantage to their practice in being degree-prepared RNs and would accordingly choose this educational route anyway—at least here in Ontario—but the pressure to harmonize standards downwards cannot help but have some impact on overall standards. What we will see, though, is a decline in applicants to nursing programs, as many women and men interested in a baccalaureate-level education will look to other university-prepared professions and careers. And, in fact, that happened. When we got the baccalaureate, we had a huge increase in applicants to the profession, much against the myth that was out there.

We are also concerned that Bill 175 is an unnecessarily blunt instrument. Are barriers to labour mobility so significant that such a strong instrument is required? We say no. Apparently, there have been 26 complaints under the AIT about barriers to mobility in the 13 years since 1996, and 23 of the 26 have been withdrawn. That does not suggest an urgent need for a legislative hammer. No. What is the hurry? We want to know the truth of this, not just that there's a barrier to mobility.

There are several other problems that have not been worked out. Monitoring out-of-province standards is much more difficult to do than monitoring in-province standards. How will the public be protected if credentials from all jurisdictions must be accepted when the local credentialing body cannot easily verify the quality of training in other jurisdictions?

With the onus of monitoring and assessing qualifications falling on the regulatory bodies—the colleges—the bill imposes the additional burden of large fines and penalties for non-compliance. With the limited resources of the colleges, we ask: Who will end up paying, in the end? The answer is: individual members of each college.

Given the fundamental flaws in Bill 175, RNAO has the following recommendations:

(1) that the government withdraw Bill 175 for the purpose of full and comprehensive public consultations with adequate notice of hearings across the province;

(2) amend section 33 of Bill 175 to explicitly preserve the right of health profession colleges to maintain and/or create standards, and place the burden of proof of unreasonable mobility barriers on the party challenging the standards. In particular, the bill must preserve the baccalaureate entry-to-practice requirement for all RNs entering Ontario;

(3) continue to promote mutual recognition agreements between jurisdictions; and

(4) severely limit the liability that regulatory authorities have to fines and penalties for deemed non-compliance with the act.

We wish to thank the members of the standing committee for their invitation to present here today, and we ask you to absolutely re-look at this bill because not only will it be damaging for the professionals who work with the public; at the end of the day, it will be damaging to the public, and that's unacceptable to us. Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation. That leaves about three minutes for questions. We'll start with the NDP; Mr. Marchese.

Mr. Rosario Marchese: Thank you, Doris and Rob. The government is committed to passing this bill, so your suggestion in number 1 is simply not going to happen. They said, before you were here, that this bill has been out there since May. My problem with that is that 99.99% of the public doesn't even know the bill was in the Legislature, so to simply say that it was out there doesn't mean anything. The debate is pretty well restricted. On Monday, we had a closure motion on this bill and on Thursday we have hearings. You heard about it because somebody called you; otherwise this government would not have been able to let you know because we haven't advertised. We haven't had the chance to advertise; that's how bad this has been.

I want to tell you that your presentation has been one of the best because you give practical examples of how this would affect the profession and the safety of patients. That clearly illustrates to me and hopefully to the government members how difficult and dangerous this can be, because they haven't seen such clear examples of how standards would be affected. While there's section 9 that says that you can oppose it in a number of ways, section 12 says, "Every ... regulatory authority shall... take steps to reconcile differences between occupational standards."

It is your obligation to reconcile differences. You, with the higher standard, have to reconcile differences. We find it objectionable. I find it objectionable; I'm sure you do. I find the \$5 million objectionable. No other province has done that. I don't know why Ontario is keen on doing that.

Ms. Doris Grinspun: We had—

The Chair (Mr. Lorenzo Berardinetti): I'm sorry. We have to move on. We only have one minute per party.

Mr. Rosario Marchese: Oh, sorry.

Ms. Doris Grinspun: May I answer?

The Chair (Mr. Lorenzo Berardinetti): Maybe through the question to Mr. Flynn. He has a minute himself.

Mr. Kevin Daniel Flynn: I'll ask you a question; you can answer Rosario's question instead. First of all, thank you for the presentation. The entry-to-practice requirement is something that is interesting and something that I need to understand a little bit better. During the exemption period, we exempted the registered practical nurses for some very good reasons. This is obviously aimed at people who want to move around the country to work, and in your case specifically, nurses who would like to move from province to province to work. I'm a patient and I move around the country. You're saying that Ontario may attract people who don't meet Ontario's standards. Whereabouts in Canada, if I had to go into hospital, would I meet a lower standing in nursing, for example? Is it in Nova Scotia or—

Ms. Doris Grinspun: I would suggest to you: in any jurisdiction that has not adopted or has moved away from baccalaureate entry to practice. You need to understand that your own party supported the Conservative government—

Mr. Kevin Daniel Flynn: Right. I understand that—

Ms. Doris Grinspun: —when we moved to baccalaureate entry to practice, and it was done based on the evidence that there is. There is plenty of evidence in home care, in hospital care, that—

Mr. Kevin Daniel Flynn: I don't think there's any argument about that, but where should I be concerned as a patient?

Ms. Doris Grinspun: I think that you need to go to places, if you are lucky enough to choose, where the requirement for nurses is baccalaureate entry to practice. This is what this province decided, and in fact, it was voted unanimously by all parties, that this is what the patients in this province need.

To undo that is absolutely outrageous; it's the only thing I can say. I am astonished that the college, which is the regulatory body—we're the professional body—actually will need to pay back to the government if the government is challenged by a province like Manitoba or any other—Quebec—that doesn't have a baccalaureate entry to practice. I'm astonished—

The Chair (Mr. Lorenzo Berardinetti): Okay, we're going to have to move on, because—

Ms. Doris Grinspun: It paralyzes the college.

The Chair (Mr. Lorenzo Berardinetti): Sorry. Mr. Bailey?

Mr. Robert Bailey: Thank you for your presentation today. The entry-to-practice issue that you've raised is something the government will maybe take a look at in amendments, and hopefully we can do something there. I also agree that the penalties, as Mr. Marchese brought up, are going to be very difficult in those challenges. I also agree that we should have public hearings—we've been into this before. We should have more notice of public

hearings outside of Queen's Park, so that we could hear from all the hospitals and the nurses across the province. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your time. The committee is now recessed until 2 p.m.

The committee recessed from 1020 to 1402.

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

The Chair (Mr. Lorenzo Berardinetti): I'd like to call the Standing Committee on Justice Policy back into session. Our 2 o'clock deputation is the College of Physicians and Surgeons of Ontario, if they would like to come forward. We're allotting 15 minutes per group or deputation. Before you begin, if you could identify who you are and your titles just for the sake of Hansard, as we keep records of all this information. Good afternoon and welcome.

Dr. Jack Mandel: Thank you for this opportunity to appear before the committee. I'm Jack Mandel, the president of the college. I'm a family physician and I've practised for 36 years here in Toronto. With me today are Rocco Gerace, our registrar; Louise Verity, the director of policy and communications; and Amy Block, our counsel.

I wish to start by stating unequivocally that the college supports labour mobility, including national mobility, for physicians. However, I want to be very clear: An immediate move to full mobility for all physicians will put patients at risk and compromise their safety. In my presentation today I will explain why an implementation strategy is needed for full mobility to protect patients against the risk of unnecessary harm; convey the college's commitment to mobility; and present our recommendations to amend the bill.

Why do we need an implementation strategy? As you know, Bill 175 will generally entitle physicians with a practice licence in any Canadian province to obtain an Ontario licence. Currently, graduates of Canadian medical schools already have this national mobility. Ontario has historically welcomed international graduates through competency screening. This step ensures that they are able to meet the same standards as graduates of Canadian medical schools and are able to practise safely and effectively. Under this system, many internationally trained physicians have obtained their Ontario licence. In fact, about 25% of Ontario's doctors received their medical education outside of Canada and for the past five years more licences have been issued to international graduates than Ontario graduates.

Bill 175 will remove the college's ability to screen applicants trained outside Canada if they have a full licence in another province. This is concerning because a few provinces in Canada have lowered their entry standards to recruit physicians. There is data to support our concern that some internationally trained physicians are not practice-ready. For example, in Saskatchewan it is possible to get a temporary licence without meeting the

criteria that provincial medical regulators are proposing be the new Canadian standard. As part of the move into permanent practice, these doctors undergo a competency assessment after one year in the community. Results from a recent cohort of 172 physicians showed that only 8%, or 14, were found to be practising at an acceptable level. The majority could be brought up to appropriate standards through further education, but 7%, or 12, had their licences terminated.

In our competency screening program in Ontario, called registration through practice assessment, we look at the practices of physicians with full licences in other jurisdictions who wish to come to Ontario but do not meet our requirements. We have found that approximately 14% of them—that's one in seven—were so substandard that no amount of training was considered sufficient to guarantee that they would practise medicine safely. Again, that's one in seven. One example was Dr. X, a physician who was practising in New Brunswick and who would not meet our proposed new Canadian standard. Our screening found that this physician did not listen to patients, had difficulty understanding clinical issues, kept grossly inadequate charts and failed to adequately follow up with critically ill and vulnerable patients. We declined to license this physician. However, under AIT and Bill 175, we would be required to license this physician and would not be permitted to place any special precautions, such as supervision.

CPSO commitment to mobility: In May 2009, the college applied to the government for a limited two-year exception to the AIT, but only for the very small number of applicants who fall below the proposed new Canadian standard. The exception we have requested would apply to applicants who have not successfully completed the appropriate medical council exams, which is a requirement for all graduates of Canadian medical schools who have not completed an approved residency program. The exception would expire once the national standard was implemented or after two years, whichever came first. We're still awaiting a formal response from the government to our application.

1410

In addition, the college supported a request of the national association of medical regulators, FMRAC, for a two-year moratorium for AIT implementation for physicians to accommodate the implementation of a new Canadian standard. The college is actively participating in the FMRAC group that has now developed a proposal for this new Canadian standard.

I would now like to outline amendments to Bill 175 sought by the college and explain our rationale for requesting these changes.

First, we recommend that the bill be amended by adding a new provision that would permit the Lieutenant Governor in Council to make a regulation exempting a regulatory college if the college and its counterparts in other provinces have agreed to develop common certification requirements. This regulation would be automatically repealed after two years. The amendment

would allow the government to pass a regulation exempting this or any other college for a short period of time. It represents a transitional step to protect public safety, ensure immediate mobility for the vast majority of physicians and extend mobility to all remaining physicians who are registered in any Canadian province within two years. Physicians who would not qualify for mobility could still obtain an Ontario medical licence during this period through the existing assessment process.

Second, we seek amendments to subsection 21(1) to clarify that the Ontario government's right to recover any penalties it has to pay for non-compliance with the AIT from a regulatory college is limited only to cases where the college has acted in bad faith. The amendment reflects what the government has already advised the colleges its policy would be on recouping penalties from regulators. This merely sets it out in the legislation.

Third, we recommend additional wording under subsection 22.18(5) to clarify in the act that the college is not precluded from continuing its current practice of requesting a certificate of good standing from the regulatory authority in every jurisdiction where the applicant has previously practised or trained, not just the jurisdiction in which the applicant currently holds a licence. To help ensure public protection, the college needs to obtain information about an applicant's past and present competency and conduct.

Finally, we recommend additional wording under subsection 22.18(7) to clarify in the act that the college may refuse to issue a certificate or may impose limitations on a certificate based on non-exemptible registration requirements and any information that comes to the college's attention.

The specific wording and reasoning behind the amendments we are recommending are set out in the appendix.

Thank you very much for this opportunity to make this submission to the committee. We would be pleased to answer questions that you may have.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have about two minutes per party. We'll start with the Liberal Party. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you for your presentation. That was one of the better presentations I've heard before any committee this year. I think it was balanced. I think you made your point very, very clearly.

During the process that led to this, we had 67 proposals come forward from organizations that thought they should receive either an exemption or an exception, and you were part of that process, I assume. Is that right?

Dr. Rocco Gerace: That's correct, yes.

Mr. Kevin Daniel Flynn: Okay, good. Why you're here today is to say that you haven't received an exemption yet or you haven't received an exception yet, but you wanted the committee to be fully cognizant of the reasons why you should and what impact it may have on the people in the province.

Dr. Rocco Gerace: That's part of our submission. Other parts of our submission, as you see, relate to other changes we think would be relevant to Bill 175.

Mr. Kevin Daniel Flynn: Okay. As I said, I found the presentation very enlightening. The part about Saskatchewan I found a little distressing. That's something I'm going to look into a little bit further. I did want to thank you, and I wanted you to understand that certainly I heard what you were saying. I understood what you were saying. I think you make a very good case.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on to Mr. Bailey.

Mr. Robert Bailey: Thank you for the presentation today as well. We'll certainly look at these, our party, especially the amendments and the suggestions you put forward. My concern as to what you're saying—I think it's reasonable to ask for the two-year rollout so you are able to adapt your organization. It certainly doesn't look very good when the doctors themselves are scared of some of the other physicians who could be foisted upon us by this bill. I would have a concern personally, or for my family and for anyone else's family. I'm sure it's a small minority, it's not a big number, but still, one would be too many. So we'll do whatever we can from our side to try and implement some of these amendments.

Thank you for the presentation today.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Marchese?

Mr. Rosario Marchese: Thank you very much. I found your presentation as good as many others that we've heard this morning. It's as balanced as most of the others.

The registered nurses talked about the same problem in terms of the potential to harmonize downward, where they argued that an RN without a baccalaureate degree from another jurisdiction like Manitoba can apply to the College of Nurses of Ontario, and if it's not accepted, she would be able to complain to her own provincial or territorial government. That government could in turn challenge the Ontario government, and if the complaint is upheld, the government of Ontario would be liable for a penalty of up to \$5 million. So they are concerned about how standards would go down as it relates to their profession. You're saying the same thing. You argue, as they did, that others could go and practise or study in another province and then come here and be able to get into the profession because those barriers would not apply. It's a problem, and I think overall it applies not just to your profession but many professions.

So we are concerned about how standards are going to be diminished, and we're concerned about the penalties. We haven't seen anything like it. This is the only province where we apply a \$5-million kind of penalty for non-compliance. Nobody else does it. Are you concerned about that as well in terms of the \$5-million penalty?

Dr. Rocco Gerace: Hugely concerned. Hugely concerned. It will drive behaviour because we simply don't have the resources to pay that kind of penalty, so it will affect how we carry out our registration responsibility.

Mr. Rosario Marchese: As I see it, we have a red seal program that applies to the trades, and it's working across Canada, with the exception of British Columbia,

which doesn't buy into it. You're trying to work on an agreement which you hope to get in two years so you have standards across Canada that you all agree to. As we do this, I wonder, why do we need this bill? Do you ask yourselves that question too?

Dr. Rocco Gerace: Yes.

Mr. Rosario Marchese: Is it a political question?

Dr. Rocco Gerace: I would just comment that we are diligently working with our counterparts across the country to develop national registration standards to which we will all subscribe. If this activity has done anything, it has driven that will to have a national standard.

I would also just re-emphasize that the vast majority of physicians in this country are fully mobile today, as we speak. This really only applies to a small percentage of physicians.

Mr. Rosario Marchese: Thanks very much.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation today. We appreciate it very much.

COUNCIL OF CANADIANS

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next presentation, which is the Council of Canadians. I just want to welcome you here this afternoon. I'd also ask that before you begin you kindly just identify who you are so that we can put that into our Hansard record. You have up to 15 minutes.

Mr. Mark Calzavara: My name is Mark Calzavara. I'm the regional organizer in Ontario and Quebec for the Council of Canadians. Good afternoon. Thank you for allowing us to appear today.

The Council of Canadians is Canada's largest citizen advocacy organization, with 70,000 members across the country in over 70 volunteer chapters that organize in their communities to protect Canada's health and social programs, public services, water and natural resources. As the regional organizer, I work with hundreds of your constituents, who in turn work with thousands more. We encourage elected officials to take actions that strengthen communities and their local economies and preserve the high standards of regulation that Ontario has traditionally enjoyed.

Since our founding in 1985, we have pressured government to live up to their responsibility to protect the rights of Canadians. In 1998, the Council of Canadians helped defeat the multilateral agreement on investment, and we've been at the forefront of citizen opposition to similar trade and investment deals at the WTO and elsewhere. Our national chairperson, Maude Barlow, is internationally recognized for her social justice campaigning, for her critique of service privatization, and for championing the public sector.

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The Council of Canadians has just finished a nine-city speaking tour and community forum in Ontario to discuss Bill 175, as well as the Ontario-Quebec trade and co-operation agreement and the proposed Canada-EU trade agreement. Hundreds of participants at these events

expressed concern over the impact of the deregulation that will result from these initiatives. They were shocked that the Ontario government had not made public the Ontario-Quebec agreement before it came into effect, and they understand that the Canada-EU agreement will open up our public services to privatization.

At the time of the tour, we had no idea that the government would be forcing Bill 175 through this month. Given the wide-ranging public impacts, we do not believe that one day of hearings is sufficient. This committee must hear the broad, genuine public concern that exists when people learn of the impacts of Bill 175. We are forced to question the urgency with which the government is moving on Bill 175. Policy implemented without public input is bad policy. On behalf of our membership, we testify to you today that Bill 175 is a serious threat to good regulation that currently works in the public interest. Furthermore, the process of consultation on this bill has fundamentally excluded those most impacted by its proposed changes: the public at large. We suggest that one day of hearings is inadequate and we question the government's commitment to democratic transparency in implementing Bill 175.

We participated in a conference call with the Ministry of Training yesterday, where we heard the government's claim of having undertaken wide-ranging consultations this year with the associations that regulate occupational certification. This process was flawed in that it entirely excluded the most important stakeholder: the public. Certification standards and regulations exist to protect our society. The people of Ontario want to have a say in any attempt at lowering those standards in order to comply with those in other provinces. Deregulation in Ontario always raises memories of the tragedy at Walkerton.

We question the existence of a labour mobility problem in Canada. Labour mobility issues are easily addressed through interprovincial co-operation and voluntary initiatives such as the red seal program for skilled trades. It's not broken; don't fix it.

The Ontario government's closed-door approach to Bill 175 is worrisome in the context of upcoming AIT modifications and the federal government's pledge to exercise its authority if provinces don't eliminate perceived trade barriers by 2010. This causes us great concern about the negotiations on the Canada-EU agreement.

We offer that the true purpose of closing out public consultation on Bill 175 is to make it easier to impose broad constraints on the exercise of governmental and public authority under the guise of addressing trade barriers. At its core, this is an agenda to promote further privatization and deregulation, precisely the policies that have been ruinous for domestic and global economies and which have also frustrated efforts to deal with pressing environmental challenges such as climate change.

Mr. Steven Shrybman: My name is Steven Shrybman. I'm a partner in the law firm Sack Goldblatt Mitchell. I have practised public interest and international trade law for well over 20 years, and I have been retained on several occasions to give advice to the

Council of Canadians. They've asked me to attend here today on their behalf to complement the concerns that Mr. Calzavara has raised.

Mr. Chairman and members of the committee, thank you very much for giving us the opportunity to make a presentation to you.

I want to just flag the other agreement that the ministers entered into last December that is also being implemented by Bill 175: not the agreement on labour mobility, but the agreement on dispute resolution. This is chapter 17 of the Agreement on Internal Trade. While it was agreed to at the same time, last December, by the ministers, it wasn't made public. If indeed it has been made public, it was only during the last two or three weeks. The last I checked, it still wasn't a public document. I was able to get a copy about four weeks ago by phoning the secretariat in Manitoba to ask for one. But we have before us a bill that was tabled in May, which implements a dispute resolution regime that no one in the province of Ontario had the opportunity to examine or consider until very recently. That regime is truly remarkable and sets a rather astonishing precedent, because it empowers private tribunals, established in accordance with the typical modalities of arbitration, to actually impose financial penalties that must be paid by the people of Ontario for actions taken by their governments or by regulatory authorities in Ontario that are, in every respect, entirely lawful and proper under the laws of the province and the Constitution of Canada, but for an agreement entered into by a member of the executive of a government with his counterparts in other provinces.

But for Bill 175, that initiative would never have come before members of the Legislature of this province. Your views weren't sought before the minister embarked upon this project of negotiating such an agreement with his counterparts, and your imprimatur for the arrangement isn't being sought but insofar as the provisions of that dispute resolution mechanism may be engaged by Bill 175. Nevertheless, it is in place and the taxpayers of the province are liable for the consequences of their elected officials, whether municipal or provincial, breaching the broadly defined constraints of the Agreement on Internal Trade, which deal, as you know, with a great diversity of public policies and laws.

Bill 175 engenders these two agreements: the agreement on labour mobility and the agreement on dispute resolution. They have two things in common: They both engender broad and sweeping implications for the capacity of governments at all levels in this province to actually honour their mandates, and they are being proceeded with, with very little transparency. While stakeholders may be consulted along the way, the people of the province are not, and you would be very hard pressed to find any explanation by the government of the day as to why these initiatives are necessary.

When I look for them, I find press releases issued by the ministers at the meetings where they gather, but nothing further; and certainly nothing like a white paper or a green paper explaining the problem that these initiatives are intended to address and resolve.

In our view, it's a very bad way to develop public policy. Not only does it put at risk the very democratic building blocks of our society, but it also denies to policy-makers the kind of informed advice and criticism, whether you like it or not, that you get when you consult, and that often improves the product. You don't have an opportunity to do that when you don't seek people's views or give them an opportunity to offer informed advice or criticism.

Even at this late date, we would encourage the committee and this government to slow down this process so that the long-overdue opportunity to explain why this bill is needed can be offered to the people of Ontario, and then they be given the opportunity to respond.

Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): That leaves us with just under five minutes for questions. We'll start with the PC Party. Mr. Bailey.

Mr. Robert Bailey: Thank you for the presentation; it was very interesting. I think a theme we've heard all day with different deputants refers to more consultation and more awareness, and that possibly a better job could have been done as far as more hearings around the province. You've echoed that.

I'd like to know a little more about dispute resolution. Do you think that part could be a charter challenge or something that, if this bill is passed and then affects somebody, someone could challenge it before the courts?

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Mr. Steven Shrybman: I think the bill raises some significant constitutional issues, and there may well be litigation, whether the dispute resolution mechanism is the focus, or an argument about the province overreaching its jurisdiction and mandate by dealing with matters that really do concern interprovincial trade, investment and labour mobility. That's a federal prerogative, not a provincial prerogative.

We think there's much more to this bill than its interprovincial dimensions, but there may be a challenge there, or for fettering the legislative prerogatives of Parliament in the way this bill will. There are serious constitutional questions that have been raised by the bill, and I don't think they've been vetted or considered by the government.

Mr. Robert Bailey: Okay. Thank you.

The Chair (Mr. Lorenzo Berardinetti): We'll move to the NDP. Mr. Marchese.

Mr. Rosario Marchese: I want to thank you both for coming, and I want to make a comment and ask a quick question. What I argued this morning is that 99.9% of the population doesn't have a clue what the AIT is all about. It was introduced in 1994, and nobody knows anything about it. The government of Ontario engaged in an agreement with Quebec, and we don't have a clue what they did. They didn't consult us; it was just done.

This bill is about to pass, and by the way, they're not going to slow it down. We're doing clause-by-clause on Monday, and if we hadn't called some of you to come, you would not have been informed about this, because

from Monday we had a debate to end discussion on this bill, and from there we moved to these hearings on Thursday. Nobody knows anything about it. I wanted, with you, to say how much I decry what this government has done. They introduced this bill as if somehow it was just eliminating barriers: "What's the big deal? It's all about Canadians being able to move from one place to the other." That's the extent of the information we get from the government.

I've had an opportunity to look at your paper, and I think that many have used your paper. I think it's a great paper that you've done for different groups, where you make the case that we actually don't have a problem. I think you were the one who made the case that most disputes are resolved, and so you said, "Why is it that we need this bill?"

I don't see the need for this bill, and the \$5-million penalties are incredibly gross. I've never seen anything like it, and only Ontario is doing it. So there's something else in this bill that they're trying to get at, and that's what they're not speaking to. Maybe you want to comment on that.

Mr. Steven Shrybman: I think there is no evidence that there are significant interprovincial barriers to labour mobility. If you look at the record of dispute resolution under the AIT, you will find that lack of evidence. I think there has something a little over two disputes a year since the AIT labour mobility rules have been in place, by hairdressers, by trappers—it's an interesting list—but they've been all been resolved but for two. So, why do we have a shotgun to deal with a problem that seems to have already been addressed effectively through voluntary interprovincial arrangements?

The Chair (Mr. Lorenzo Berardinetti): We need to move on. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you very much for your presentation today. I want to say from the start that I've always held the Council of Canadians in high regard. I think Ms. Barlow has done some wonderful things for our country, which makes me wonder why you're involved in this, right from the start. I've seen some of the issues you've involved yourselves in, in the past. I think they've been some really noble causes that speak to what we're about as a country.

The intent of this act is to eliminate or reduce measures that either impair or restrict the ability of Canadians to move between provinces east-west. Some people in the past have said it's easier to do business or it's easier to move on a north-south axis than it sometimes is on an east-west axis in this country. The objective of this is to make it easier for ordinary Canadians to practise whatever skill or profession they have in various jurisdictions.

Now the AIT, as I understand it, was brought in under the NDP government. I could be corrected on that, but I believe it came in under the NDP. So the 99.9% you're talking about may be a little smaller than that.

Mr. Rosario Marchese: This is a federal issue. AIT is federal.

Mr. Kevin Daniel Flynn: No, I think it's an agreement between two provinces.

When you look around the country, is there a group of Canadians who aren't up to Ontario standards in their skill or profession? Is there something I should be wary of that sheet metal workers in New Brunswick aren't as good as sheet metal workers in Ontario, or is there some reason not to allow all Canadians to have the same access to make a living in their skill or trade throughout this country?

Mr. Mark Calzavara: To answer your first question, I think the reason we have engaged in this really has to do with this overarching push to take down any kind of perceived barrier to trade, regardless of its real function, and the reason there are different regulations across the country—there are fundamental reasons that have to do with those jurisdictions. They've made those regulations for good reason. This is a bill that will ultimately bring our regulations down. People don't want that. People want to see the regulations, if anything, get stronger.

The other thing that happens with this is that it increases competition. People in Peterborough, for example, may be having a hard time with the unemployment rate there. Do they want other people coming in from other parts of Canada, coming from across Canada, to compete with them for their jobs there? The regulations at this point—if you're living in Ontario and you're practising as part of one of those trades that are regulated, then you're qualified. So opening it up to anybody coming from anywhere across the country makes it more difficult.

The Chair (Mr. Lorenzo Berardinetti): I'm going to have to interject there—

Mr. Kevin Daniel Flynn: I'm listening hard and I'm not getting it.

The Chair (Mr. Lorenzo Berardinetti): I'm going to have to interject because we've gotten past our 15 minutes. I do apologize, but just in fairness to the other deputations here, I'm only following the rules that are in front of me. The 15 minutes' time has expired. Thank you very much on behalf of the committee for being here today.

COALITION OF COMPULSORY TRADES

The Chair (Mr. Lorenzo Berardinetti): Our next deputation is the Coalition of Compulsory Trades. Good afternoon, and welcome.

Mr. Alex Lolua: Good afternoon. My name is Alex Lolua and I'm the director of government public relations for the IBEW Construction Council of Ontario. Beside me is Scott Macivor. Scott is here representing the Electrical Contractors Association of Ontario. Both of us are here on behalf of the compulsory trades coalition.

We're going to keep our presentation brief. We prefer to get some questions from the committee members, as most of our issues have been raised. But the one thing we do want to emphasize is, again, as some of the other speakers have said, that Bill 175, in principle, doesn't do a lot of harm to the compulsory trades. I'm sure most of you know, from the college of trades legislation, which most of you sat in on, that compulsory trades are a little bit different than other trades in the construction industry in that a licence is required to work in our trades.

On the surface, Bill 175 doesn't appear to be a problem, but, as other speakers have said, you can't look at Bill 175 on its own because it's tied in with the Agreement on Internal Trade.

One of the things that we would like to raise, though, is the purpose clause and how that emphasizes that concern. It puts the onus on the province of Ontario and all its regulatory bodies to comply with the Agreement on Internal Trade, as other speakers have said, which there wasn't a whole lot of input on. So therefore, the provisions within the AIT are just as important as those that are contained in Bill 175.

To see the potential impact that that could have on the compulsory trades, you have to look at section 707, in particular, clauses 1 and 2. Those two clauses introduce other standards than red seal for mobility for the compulsory trades across Canada. That's something that all of us within our coalition—and I guess I should go back for a moment, first of all, to explain to you who is in that coalition. I apologize for not having done that first. It's the Electrical Contractors Association, which represents the employers and the electrical industry; the International Brotherhood of Electrical Workers, which are the employees who do electrical work; the Mechanical Contractors Association of Ontario; the Ontario Pipe Trades Council; the Ontario Sheet Metal and Air Handling Group; and the Ontario Sheet Metal Workers and Roofers Conference.

To go back to the concerns we have, our industry across Canada has developed red seal as the standard for mobility, and it works. Every tradesperson in Ontario in a compulsory trade writes red seal now when they get their C of Q. So we've already got a standard that industry has developed and now we've got other people telling us that there needs to be another standard to increase mobility, and we think that's not a good thing. That's a race to the bottom and it's only going to deskill the trades. I think the doctors and the accountants and other people have explained the perils of doing so, and that's something that we'd also concur with.

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We'd also like to commend Bill 175 in that it does emphasize the province's commitment to red seal. So on one hand, we've got a bill saying, "Red seal is the be-all and end-all," and yet AIT says, "Maybe something else will do." If we're going to be committed to red seal, let's be committed to red seal. Let's work within red seal so we're going to get mobility. Let's use that standard that industry has developed and work on any other minor issues that we think curtail mobility to address that situation.

Finally, the last concern that we want to touch on is in clause 12(1)(a), where it talks about how regulatory bodies should not be making changes that could hinder mobility. With the new college of trades—we passed that bill recently. Within that, we have trade committees. So if a trade committee decides to change its curriculum, is it going to have to worry about whether those changes are going to hinder mobility? For example, in the elec-

trical industry we've developed a brand new curriculum for solar-voltaic electrical production. If we change our curriculum in Ontario, somebody who gets their electrical licence in the Yukon isn't likely to be involved in solar-voltaic electrical production because there's not enough sun to use that technology. So is the PAC going to be restricted in making changes that they need in Ontario because it may hinder mobility?

Those are the kinds of things that we have to be assured wouldn't be an indirect consequence of the amalgamation of these two agreements.

Beyond that, we would welcome any questions that you may have on the bill.

The Chair (Mr. Lorenzo Berardinetti): That leaves about 10 minutes for questions. We'll start this time with the NDP. Mr. Marchese? There are about three minutes per party.

Mr. Rosario Marchese: How many?

The Chair (Mr. Lorenzo Berardinetti): About three minutes per party.

Mr. Rosario Marchese: Alex, one of the things that worries me about this bill is, it says that, in section 12, "Every Ontario regulatory authority shall... take steps to reconcile differences between the occupational standards it has established for an occupation and occupational standards in effect with respect to the same occupation in the other provinces." It assumes that the occupation in other provinces is the same or that the standards are the same. We know they're not. Is that not the case?

Mr. Alex Lolua: No. I've served on the Ontario-Quebec monitoring body since, I think, Mrs. Witmer appointed me in 1997. In some cases, it's a dog's breakfast. I think most recently we've seen it in British Columbia, where they've deskilled a lot of trades. Again, that makes trade-matching difficult.

Mr. Rosario Marchese: And that's the problem for me, because it says that the province must reconcile those differences—meaning, "I have the responsibility to make sure that person gets employed and that no additional training should be required," is what they're saying with this bill.

Mr. Alex Lolua: Yes.

Mr. Rosario Marchese: And it worries you, I'm assuming, right?

Mr. Alex Lolua: It does. To us, to the members of the coalition, it seems to send a bad message against red seal.

Mr. Rosario Marchese: What about the fact that this bill requires \$5 million in penalties if there's no compliance? Have you heard anything like it, where you're going to be charged five million bucks if you're not complying?

Mr. Alex Lolua: Not to my knowledge. I could see where people could be concerned as part of a trade advisory committee within the college of trades. If they're going to be subject to those kinds of penalties, I'd be concerned.

Mr. Rosario Marchese: Are there stories that you've come along with that you could tell us that makes a

difference in terms of how this problem would either be good and/or bad?

Mr. Alex Lolua: What the doctor from the medical profession said is that people are worried that there's going to be a sieve somewhere; that it's going to act like a gateway.

Recently, in the Ottawa area, we've had an incident where three fellows came in from Florida with electrical licences. In Florida, the licences are given out by the county government. So they came up here, were automatically given a provisional certificate to operate as a full 309A electrician—a certified trade. The gentlemen in question, one of them, wrote the provincial exam and scored 48%. I'd like to commend the ministry because they have addressed that problem, but it just demonstrates that if one jurisdiction in Canada decides to give out, let's say, a provisional certificate for a compulsory trade, people are going to—

Mr. Rosario Marchese: Go there.

Mr. Alex Lolua:—flow to there, get that certificate and just proliferate throughout Canada. We've got a standard; it's red seal. We really believe it works.

In the work that I did on the monitoring body, in the red seal trades, it's easy to get matches. If everybody writes to that standard—and, to our credit, in Ontario, every single compulsory-trade journeyperson writes to that standard. They don't have a problem going anywhere. So if we can get that agreement, we're there.

The Chair (Mr. Lorenzo Berardinetti): We need to move on. Thank you. Mr. Leal.

Mr. Jeff Leal: You talked about the red seal program and your involvement with it over many years. Section 6 says, "Nothing in this act restricts the crown from taking any action that it considers advisable in order to fulfill its ongoing commitment to the interprovincial standards red seal program referred to in article 707 of the Agreement on Internal Trade." That guarantees your red seal qualifications, as I understand, in that section of the bill.

Mr. Alex Lolua: We like that statement. I think I mentioned that in my brief.

Mr. Jeff Leal: It's not a statement; it's part of the bill.

Mr. Alex Lolua: We understand that, but in 707, 1 and 2 of the AIT say that there are things acceptable other than red seal. We're saying, that's not necessary. We have the standard. It has been developed by industry. Why would we go to something else to cause a lowering of the standard?

Mr. Jeff Leal: One further quick question: If I was investing in a business in Manitoba today and I needed an electrical contractor, would I be in jeopardy because of standards that are not the same as Ontario's?

Mr. Alex Lolua: We believe that in Ontario, we have the highest standard and we think that's what makes Ontario a great place to invest.

The Chair (Mr. Lorenzo Berardinetti): There's one minute left. Go ahead, Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you, Alex, for your presentation. It was very balanced. I think you're saying that there are things in here you like; there are things in

here you have concerns about. If you'd expand upon—in about your third paragraph you say, "In principle, Bill 175 does not appear to be detrimental to the compulsory trades." You go on: "Its impact is dependent on how the Agreement on Internal Trade is interpreted and implemented." The Agreement on Internal Trade was signed by the NDP government in 1994, as I understand it, so why has it become an issue now? Could you expand on that concern a little bit?

Mr. Alex Lolua: It's probably more of an awareness. I've been in government relations work since 1993 with the building trades in my previous life. I wasn't overly aware of the AIT, but now, I think because of awareness—because of the press and because of this bill, Bill 175, it has increased the awareness level. Again, one thing that I have learned in construction is that people who have their C of Qs are proud of what they've done. They make their money by their skills. It's not what they produce; it's the skills that they have, and I'm sure you've seen that in your new role as the parliamentary assistant to the minister. They're very fiercely loyal about what they have and they're proud of the high standard that they've achieved.

Red seal stands for something. When it appears that it's getting undermined, they get their backs up. A lot of people in the compulsory trades have their backs up, and I sense that doctors and accountants and other people who have achieved the highest standard they can in their profession feel slighted, whether rightly or wrongly, in that people or someone or their government or whoever is trying to introduce something that undermines what they've achieved.

Mr. Kevin Daniel Flynn: That's not the intent.

The Chair (Mr. Lorenzo Berardinetti): We must move on. Mr. Bailey.

Mr. Robert Bailey: Alex, Scott, thanks for the presentation. I understand your concerns. I worked in industry for over 30 years, as you know, Alex, and I worked both beside and then coordinated, or supervised, many people who belonged to the red seal program. I worked in the petrochemical industry and I know the skilled labour out there—electricians, pipefitters, every trade—so I appreciate their concern and I understand. When I sent people out, knowing that they had met those standards to qualify for the red seal program, I breathed a lot easier at night when I had people out on the job and had to be responsible for their safety. So I understand your concern.

What is something that we could do in the short term to try to—have you got some suggestions for amendments to ease your mind and both industry and the trades?

Mr. Alex Lolua: I'm not sure at this point how much you can do, in that the AIT itself won't be amended. I know in talking to some of my colleagues that the penalty and the arbitration system do cause concern because people don't know who is to be selected or how the process is going to work. In construction in particular, as many heard me say when lobbying you on other issues, it's a unique industry, so if you don't understand the

intricacies of construction—you're going to have people ruling on our industry, potentially, that don't understand it. Some of those things can have long-term impacts. Those are the kinds of things that we don't want to subject ourselves to, especially when we've developed something like red seal that's universally accepted and it works.

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Mr. Robert Bailey: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your time and thank you for your presentation.

ONTARIO COUNCIL OF HOSPITAL UNIONS

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next presentation: the Ontario Council of Hospital Unions. Good afternoon, and welcome to the committee.

Mr. Michael Hurley: Hi, Mr. Chairperson and members of the committee. Thanks so much for allowing us to make a presentation. We really appreciate the opportunity.

My name is Michael Hurley and I'm the president of the 30,000-member Ontario Council of Hospital Unions. With me today and handling the content of the bill will be Steven Shrybman, who's an international trade specialist and a lawyer with Sack, Goldblatt, Mitchell.

I'd just like to say at the outset that they have the privilege of travelling across Ontario—and you really have to ask yourself how Ontario has done under the free trade regime. Whether you live in Cornwall or Kenora or Windsor or Hamilton, we've got an economy which is staggered with job loss, as the manufacturing and resource sectors have shut down in this province as a result of what's happened under the free trade regime. I think that this legislation and the context in which it's situated is exactly the wrong policy for Ontario and exactly the opposite of the economic policy this government should be pursuing.

Mr. Steven Shrybman: Hello again, members of the committee and Mr. Chair.

You have a short presentation that has been prepared on behalf of the Ontario Council of Hospital Unions. I assisted them with that. I'll just very briefly summarize the key points and I'll try to avoid repeating some of the comments that I've heard others make before you today.

The first point is simply to question the premise for this entire exercise. There is no demonstrable problem of labour mobility that isn't being addressed or hasn't been satisfactorily resolved through voluntary measures, including the red seal program. But there are many other initiatives that have been pursued successfully over recent years.

You can go to the website maintained by the secretariat for the Agreement on Internal Trade and see all of the disputes that have been filed. There are 23 that have been filed since 1994. So you can see what the character of the

mobility disputes are and also learn there that virtually all of them have been resolved.

The second point is this whole pressure that the bill will generate to lower standards to the lowest common denominator. Ontario has often set a national benchmark for regulation. I know, having practised environmental law for 20 years, that the best standards in the country were often Ontario's standards. There were many jurisdictions that were lagging behind. Ontario's example provided the leadership that they might follow to achieve more in terms of protecting the environment.

This bill will put in place a counter-dynamic which will encourage the reduction of Ontario's higher standards to some lower common denominator. You've heard some of the argumentation. Perhaps one point you haven't heard is that under this bill, only the jurisdiction maintaining high standards can be challenged and penalized. There's no recourse for someone who is concerned about the absence of standards in a particular jurisdiction, and there is no sanction for not properly regulating a skilled trade or a profession.

By allowing people to be certified who aren't residents in Ontario, the inescapable impact of that will be to increase competition for employment in Ontario at a time when the economy is in serious decline. The run-on impact of that will be downward pressure on wages and benefits. That speaks very directly to Mr. Hurley's point about whether this is a policy that suits the economy of this province, which is now under considerable stress.

The premise of this exercise is somehow that when a regulatory body maintains a higher standard, the higher standard should be suspect; that it was established for some improper purpose. But when you step back from it and you think about the process of developing standards—and as lawmakers, you're familiar with it—governments don't act capriciously. They don't act for protectionist reasons. They are trying to protect consumers. They're trying to protect public safety. They're trying to ensure that the crane operator actually knows what he's doing and the nurse is properly trained. The onus should be on someone who seeks to challenge the validity of our regulations, not the other way around. This bill has it backwards.

One of the things you may not have heard is that the bill imposes significant resource demands on Ontario regulators. If you're the College of Physicians and Surgeons, or Nurses, or the people who certify child care workers, and you get an application from somebody who has received a certificate in Alberta, how do you know what their regulatory standards are or how effectively they are being implemented, particularly as, increasingly, private companies are being licensed to issue licences and certificates?

The Star ran a long series—I don't know whether any of you saw it—exposing that in Ontario we have real problems policing the private colleges that are turning out people with licences who aren't properly trained. And now, somehow, Ontario regulators have to keep a tab on what's happening in every other jurisdiction in the

country—very much of a demand on resources at a time when resources are scarce.

There are exceptions under the bill. This is another point you may not have heard. They're much less robust than they appear to be. If you look at the way the dispute panels under the AIT have treated the exception for legitimate objectives, you will see that they've established a standard that requires the jurisdiction seeking to rely on that exception to establish that there was no other feasible way to achieve their objective that was less restrictive of trade and thus labour mobility. It's an impossible task to meet, to prove that negative.

The last thing I want to say before I close is that the Conservative government of Stephen Harper has made the implementation of the AIT, of which labour mobility rules and the dispute resolution provisions are two key elements, a priority. He talks about it in his throne speech. He goes even further in their election platform materials, saying that if the provinces don't act to do this, the federal government will rely on its trade and commerce authority to impose those disciplines on the provinces. That would truly be a constitutional challenge, if it actually went that far.

We believe there are no demonstrable or meaningful barriers to trade, investment and labour mobility in this country, however many times the trade ministers may repeat their belief that there are such things.

What this agenda offers the Stephen Harper government is a pretext for an ideological agenda that seeks to reduce the capacity of governments to do the things we expect governments to do, which is to regulate in the public interest and provide public services such as health care.

It's not surprising, given his ideological commitment, that he would be committed to such an agenda. What's entirely puzzling to us, though, is why the province of Ontario would seek to do that bidding.

Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That leaves us with about six minutes for questions, so two per party. This time we'll start first with the Liberal Party. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you—

Mr. Rosario Marchese: Kevin, you can have my two minutes—so that they can engage each other. Go ahead. If you run overtime, you have my two minutes.

Mr. Kevin Daniel Flynn: Okay. Thank you, Rosie. You're a nice guy.

Mr. Rosario Marchese: That's the way I am.

Mr. Kevin Daniel Flynn: No matter what everybody else says, I like you.

It's a little like shadowboxing here, in some of your statements. I think you're saying we don't really need this, but if we had it, it would create pressure on Ontario jobs and everybody would be going to Peterborough and stealing Peterborough jobs. Surely if we didn't need it, everybody would be going to Peterborough and stealing Peterborough jobs as we speak. I'm trying to follow the logic of not needing the bill and saying we don't need it

because we have mobility, but now if we implement a bill that encourages mobility, bad things will follow.

You refer to things like lower standards. I'm just wondering, what is an example of a lower standard in Canada in a skilled trade, a profession, that I might be familiar with?

Mr. Steven Shrybman: Well, Ontario has standards, in consequence of what it learned at Walkerton, that require more of people who operate water systems than is the case in other provinces. There are provinces that do not require, as Ontario does, nurses to have university degrees. There are provinces that do not require social workers, as Ontario does, to have university degrees—something, by the way, the province did, I gather, in the early 1990s because of the concerns about bad things happening to children in care.

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I think you do know that there are jurisdictions in this country that are far less committed to regulation than is Ontario. That has historically been the case; it still is the case. Certainly, the governments of Alberta and British Columbia and other governments simply do not adhere to the same notions of the role of government in contemporary society. That becomes the benchmark against which Ontario standards are going to now be measured.

My comment about the impact on the economy was made specifically with respect to the fact that residency may no longer be required as a prerequisite for certification in Ontario. I think the inescapable conclusion of that is you're going to get many more people applying for a ticket in Ontario because they don't have to actually reside here.

I don't know how many people there will be who fall into that category, but right now that's a constraint that is permitted by provincial regulators that would be removed under this regime. Also, if you lower the bar there are just going to be that many more people who can claim qualification, even if they're not trained to the higher standards that Ontario maintains.

Mr. Kevin Daniel Flynn: Okay. On the waste water example you used, which I think is a good one, we've made an exception for that because, clearly, Ontario has developed, for good reasons that you stated, a much higher standard in that regard. That seems to me to be a sensible provision of the bill, but I keep seeing this sort of reference to—for example, "By requiring the certification of tradespersons and professionals who are trained to a lower standard..." Yet I've asked others who have presented today—so don't feel I'm picking on you—who or what is that lower standard? Where would I find somewhere in Ontario that I might be—if I had to use, let's say, a social worker, should I be concerned about that in some other province, or a nurse in some other province, or a hospital in some other province in this country? Where should I be concerned about the standards?

Mr. Steven Shrybman: I've given you a couple of examples that I know, but I'm a lawyer, not an expert in the regulatory qualifications that various provinces

maintain for various professions. But I asked the provincial officials responsible for this project where that information could be found and they told me they didn't have it. What they were doing instead was to go to the colleges and ask them to survey the Canadian landscape, identify where the problem areas existed, and then tell the people in charge for the province what standards they wish to maintain that might be assailed because other jurisdictions weren't meeting the same expectations that Ontario had in place—and then the provincial officials would tell them whether their desires were permitted under this bill.

There's been a lot of conversation taking place that most of us aren't privy to that would reveal the answer to the questions you have asked, as would committee hearings, I believe. I attended hearings in British Columbia and Saskatchewan into the trade, investment and labour mobility agreement. The committees travelled around the province; they were legislative committees. They heard from an awful lot of people who were informed about the impacts of those initiatives and advised the legislative process of them. It was a very effective process, but it's one that governments have to be open to and encourage.

The Chair (Mr. Lorenzo Berardinetti): We have to move on. Mr. Bailey.

Mr. Robert Bailey: Thank you, Chair, and thank you for the presentation. I agree with public hearings too. I think this bill, like all bills, would be better if we were able to travel and hear from individuals like yourself and other people affected.

One thing I can't understand—I haven't been here a long time, but usually when I come to these committee hearings, one deputation comes and they're strongly in favour, and then the next deputation will come in and they've got reasons why they're against it. But so far today, everybody, to different degrees, has got a lot of concerns with this bill. What I can't understand is, who helped draft this bill? How could this thing be drafted in isolation?

Most times, in my experience—Rosie, I'm sure, can tell better, and a number on the government side—usually there's one side and the other, and you have a hard time making the decision, because one deputation will come in and make a great argument, and you say, "Okay, that sounds good," and then the other guy will come and tell you how bad it is. But today, everyone seems to have big concerns about this. Can you explain—is it just me who feels that, or does everybody in the room feel that way? If you've got an answer, fine. I just don't understand this.

Mr. Steven Shrybman: If there were a real problem for this bill to solve, you would hear from the people who are aggrieved by the status quo. They're not coming forward, I believe, because they don't exist.

This will do nothing to improve the qualifications or competence of anybody working in a skilled trade or a profession in this province. No one can plausibly make that claim. But it may be of some help to somebody in the province who can't find work here and wants to move

to Alberta, if Alberta has put in place similar legislation—and by the way, I don't think it has. Not every province has followed Ontario's lead.

Mr. Rosario Marchese: And it's different. That's right.

Mr. Steven Shrybman: So the only people it's going to help are people who want to leave the province because they're that desperate to find employment that they feel they have no alternative and they're going to a jurisdiction that has done what Ontario has done. I think BC, Manitoba, Quebec and Ontario are the four. So it wouldn't help them very much in Alberta.

Mr. Robert Bailey: So, in other words, this is maybe to help outward migration; it's not really going to help anybody here in the province?

Mr. Michael Hurley: We had a series of Canadians—as one of the previous presenters indicated, we had close to a couple of thousand people out, and all of them were very concerned about this piece of legislation, about the Quebec-Ontario agreement, about other trade legislation, and it's really shameful that we're not affording people the opportunity to have a discussion about this trade regime and what its implications are.

As I said at the outset, there are a lot of people hurting, as you know, in the province of Ontario, hurting economically, hurting because of what has happened as a result of the North American free trade agreement and very concerned and alarmed about the possibility that there will be further deregulation, there will be further elimination of barriers and they're going to be the victims of that.

The Chair (Mr. Lorenzo Berardinetti): Okay. I have to stop you at that point, because the 15 minutes has been used up.

Mr. Marchese, you gave your two minutes—

Mr. Rosario Marchese: That was great.

Mr. Michael Hurley: Thank you very much for having us.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for coming out.

Just to let members of committee know, the 3 o'clock deputation is not present. What we're going to do is just skip down to the 3:30 deputation—

Mr. Rosario Marchese: Erin is here. Fine.

The Chair (Mr. Lorenzo Berardinetti): —the International Brotherhood of Electrical Workers, and then we'll hear from the United Steelworkers union after that.

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

The Chair (Mr. Lorenzo Berardinetti): We'll go first with the International Brotherhood of Electrical Workers. Good afternoon and welcome.

Mr. Barry Stevens: Thank you. My name is Barry Stevens. I'm with the International Brotherhood of Electrical Workers. I'm the political action media strategist for Canada. I am also a licensed red seal electrician since 1968.

Before I start, I'd like to do two things: I'd just like to say, what's the rush? The other thing I'd like to say is—there's been talk about where are the lower standards? Well, I'll tell you. In the electrical industry, the lower standards are in Quebec and BC. That being said, I'll read my deputation.

The Agreement on Internal Trade presents major problems for the International Brotherhood of Electrical Workers. For many years, the electrical construction industry has promoted the red seal program as the benchmark that represented the standard of excellence. With the red seal, the worker could travel to any part of the country and ply his or her trade without further examination. The Agreement on Internal Trade appears to undermine this standard.

The negative impact of implementing the AIT labour mobility act is of great concern. Patrick Dillon, business manager of the Provincial Building and Construction Trades Council of Ontario, is on record as stating:

"There is no doubt in my mind, with what they have put in place, it allows for the lowering of standards, no matter how it is cut. The real sad part of that is that it hurts health and safety, and long-term injuries and deaths will increase in construction."

The Ontario Federation of Labour echoes Mr. Dillon's concerns. In a letter dated October 20, 2009, and sent to Premier McGuinty, the OFL said it will impact on Ontario's ability to insist on high-quality training standards for regulated trades and professions. Wayne Samuelson, president of the OFL at that time, is concerned "that aspects of the Bill 175 (AIT) will prohibit local and municipal agencies from developing hiring practices that nurture local economies." He goes on to state, "Bill 175 may well contribute to limiting your government's ability to implement effective economic development strategies, especially in the area of procurement."

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The indictment against the AIT is further argued by Steven Shrybman, a lawyer representing Sack Goldblatt Mitchell. In his executive summary of Bill 175, Mr. Shrybman makes the point that under the new proposed regulations, any failure to comply with the regulations could result in penalties as high as \$5 million for each incident. These new rules would expose municipalities and non-governmental regulatory authorities to possible unfavourable consequences. The new laws would also put the proposed college of trades in Ontario under the same scrutiny.

Mr. Shrybman argues, "There is no demonstrable rationale or need for Bill 175, as virtually all significant labour mobility issues have been successfully addressed over recent years through interprovincial co-operation and other voluntary initiatives such as the red seal program for skilled trades." He further states, "Requiring regulators to recognize occupational certifications given in other provinces with more modest standards will create pressure for them to reduce their own standards to the lowest common denominator." He is firm in his belief that Bill 175 will do nothing to enhance the professional

skills and competency of a tradesperson; in fact, it may do the opposite.

The argument for labour mobility is an ideological one driven by the Harper Conservatives. Their argument that there are too many impediments to labour mobility is unfounded. To begin with, 20% of Canadian workers are employed in regulated trades. From this group, there have only been 23 challenges to mobility in the last 15 years, and only two of those were upheld. This legislation is not about giving workers the freedom to earn a living where they wish, but rather, it is a vehicle to drive wages and working conditions down. If the federal and provincial bodies really want to increase the ability of workers to find a place in the construction labour market, then they should allow workers to deduct relocation and travel costs from their taxes.

The Construction Council of Ontario, CCO, along with the Ontario Electrical League, OEL, and the Electrical Contractors Association of Ontario, ECAO, made a joint submission to the provincial government in May 2009. In their proposal, they raised concerns that the red seal program would be marginalized after being the standard for over 45 years. The concern is that we may get a commitment to the red seal program from every province; however, if the red seal itself is degraded, then it doesn't matter.

The problem isn't creating a national standard; it is maintaining the high standards for the authentic trades.

Four underlined positions were put forth:

(1) Nothing must be done which would diminish the role of the red seal and national standards in the construction industry. As a practical matter, that means that the specific language in article 708 must remain intact and unchanged.

(2) Industry cannot and will not accept the removal or watering down of article 708. Assurances that red seal will continue to play the same role it has played for more than 45 years are of little value if the language of article 708 is weakened or diminished in any way.

(3) Ontario's policy on internal trade should continue to support national mobility through the adoption and maintenance of national occupational standards.

(4) The amended agreement must contain the same explicit recognition of the role of the red seal, namely that the "red seal program shall be the primary method through which occupational qualifications in regulated trades are recognized."

The CCO document presents the argument clearly and what should be the standard. The International Brotherhood of Electrical Workers supports this position, and further to that, we will be presenting deputations, in other provinces that are pushing this legislation forward, in defence of the red seal program. Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): That leaves just under eight minutes for questions. We'll start with the Conservative Party, so about a couple minutes each.

Mr. Robert Bailey: Thank you for your deputation. I appreciate it.

I worked in industry—I don't know whether you were here before—and I appreciate the red seal program both

from a contractor's side and from a worker's side, the work that they did to achieve the red seal program.

I asked the last deputant this, and I don't know whether you were in the room or not: Do you know why it seems everyone that we heard today so far—unless I stand to be corrected; maybe someone's going to come in at the last minute and ride to the rescue—seems to be against this program? I'm kind of surprised. It seems like organized labour has spoken to and communicated with the ministry and the civil servants who helped draft this. People who are ordinarily pretty well-connected spoke out against it or had concerns, and yet it's still here before us. So what's the background on this bill? Why are we here, I guess?

Mr. Barry Stevens: That's a good question. I wish I had the whole answer to it. But I think I stated that it was ideologically driven in terms of the fact that there's a premise by certain parties in this country who believe that there is no labour mobility when in fact, we've had it for 45 years using the red seal program as a standard. That doesn't mean to say that if you don't have the red seal program you can't, let's say, go from Ontario out to Alberta, but you are only given a provisional licence for the period of time that you're out there. You either have to write your licence after three months or head back home. You have to meet that standard. That encourages education in the trade and maintaining a high level.

Everybody in this room wants to have an electrician as their best friend. Why? Because everybody knows that it's a highly skilled job and requires regulations. We have to work under those regulations. It doesn't happen overnight. It's not being a medical doctor—I'm not putting myself at that level—but it certainly requires a high level of education. I think the standard has been set.

All we're saying is, if you're going to adopt this bill, adopt the red seal program as the standard and ask the other provinces to come up to those standards. Yet BC has turned around and deregulated the electrical trades and many of the other licensed trades, and that pushes it down and causes a fragmentation of those occupations. Quebec has a lower standard as far as qualifying to be an electrician; the exam in Quebec is much easier and requires fewer hours to serve an apprenticeship. Ours is 9,000 hours, and 70% to get your licence gives you the red seal. Now, you either get your red seal or you fail. A pass is 70%. When I wrote my red seal, I could have gotten my licence at 60%. I didn't have to worry about 70%. I blew by 70% a long time ago. I made my living in the trade, very honestly.

That's the pressure that we're faced with: Having those two provinces with lower standards is pressure down on workers to maintain the wages that they need to live in Ontario.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on to Mr. Marchese. You've got a couple of minutes. Two minutes.

Mr. Rosario Marchese: I wanted to ask Mr. Shrybman this question, but it didn't happen, so I'm going to read this and see what you think about it. It says, in

section 6, "Nothing in this act restricts the crown from taking any action that it considers advisable in order to fulfil its ongoing commitment to the interprovincial standards red seal program...." The way I read it is that the minister could take action, because nothing prevents him from taking action, but he or she doesn't have to take any action to protect the red seal. That's how I read this. It's not a positive or affirmative statement saying that the red seal is here to stay and it's enshrined in the act and no one has to worry about it; it simply says that nothing restricts the crown from taking action. But they may or may not take any action, which means—

Mr. Barry Stevens: And in fact, Ontario may say, "Look, we want the red seal program to remain intact at the standard we want." The government of the day here in Ontario may want that, but when it goes to an AIT panel, that's when the politics are played and the standards can be pushed down. That's why this is wrong, to be going forward at this time. We have to have a commitment and an open conversation that says that the red seal program will be maintained at the high standard it's at. I don't want to see that diminished.

Mr. Rosario Marchese: And Barry, it's not just the AIT that could reverse it; any other government that has a different ideology could reverse it, or not take any action with respect to it.

I just wanted to tell you, Barry, that—

The Chair (Mr. Lorenzo Berardinetti): Last question.

Mr. Rosario Marchese: We debated this bill on Monday, and we closed the debate on this issue. On Monday, the government, by order, simply referred this bill to these hearings on Thursday. A clerk was not able to send out an ad in the *Toronto Star*, the *Globe* and the parliamentary channel so that everyone would be advised about this bill, so they could come and depute. No one knew about it except for the few people who were informed. I have never seen anything like it done by any previous government.

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Mr. Barry Stevens: I applied at approximately 4 o'clock yesterday afternoon, after getting home from another meeting I was at where I had to have my BlackBerry off and wasn't able to get my messages. I got on the computer. Pam Frache from the OFL had said, "This is where you go to apply for deputations." I stayed up last night, wrote the deputation and I'm here today.

That's what I say: What is the rush? I'm sure we would have had more deputations and a better understanding of this, given more time.

In simpler words, Steven Shrybman—I'll say it simpler, maybe, but still heartfelt. The fact is, in a democracy, what's the rush? The whole value of a democracy is to lay it out so that people can understand the argument and then be allowed to voice an opinion one way or the other.

I'm not saying that everybody here would have come in and been against it. We've reacted, but there may be people out there who would have come in and had the

opportunity to support your position. But that's democracy.

I know about democracy. I belong to a union. I've put motions on the floor, and sometimes they get defeated. You have to do your homework.

So I just find that this is rushed. You're going to start doing clause-by-clause on Monday. That's not a whole lot of time for people to put amendments forward, even. I know the work that an opposition party or a committee has to do to put those amendments in and write them up properly—

Mr. Rosario Marchese: That's right.

Mr. Barry Stevens: —so that they become a legal document. I'm not afraid of the law of the land; I just want it to be done in good conscience and properly, and not rushed.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on to the Liberals. Mr. Levac.

Mr. Dave Levac: Just a quick question and I'll turn it back over to the parliamentary assistant. Thank you very much for your presentation, Mr. Stevens. I appreciate it.

I tend to want to learn things, so I'm going to ask this question in all ignorance. Is there statistical evidence to show that—you mentioned Quebec and BC. In any other organization that you're familiar with that has what you believe to be lower standards, is there a statistical correlation between them and accidents and deaths and health and safety issues, if that's available?

Red seal, if you could help me with that: Is there still an ongoing discussion between Quebec and BC and any other province to get to the red seal, or are you explaining that they're actually leaving red seal and not applying themselves to it?

Mr. Barry Stevens: There's no obligation to the red seal program in BC and Quebec. What we've done—and I'll kind of go backwards on your questions. I thought you were going to ask, "How do you do a three-way switch?" so I was going to draw it out for you.

Mr. Dave Levac: My favourite is, my auto mechanic is on my Christmas card list too.

Mr. Barry Stevens: I'll give you a card, and you can put me on yours.

Mr. Dave Levac: So be it.

Mr. Barry Stevens: But in all seriousness, in the unregulated sector, where you have workers who are casually trained in construction, and you can go to the Ontario secretariat—and I can only speak on Ontario. Those statistics would be available in BC and Quebec. I don't have a lot of time to get them to you, obviously, because you're going to deal with this thing on Monday—which isn't right.

Here in Ontario, when you're dealing with people who don't agree to the ratios and rush workers in and put unqualified workers into place, the accident rate and health and safety rate is four to one. The union's trained workers' accidents are one quarter of what untrained workers' are.

That's the risk you run when you fragment a trade. We're dealing with something here that, quite honestly,

can kill, and if it doesn't kill you, it can really hurt you, around those things.

Those statistics are available. We don't come armed with everything with us. But if you want to pose the question in writing, even after the bill is jammed through, we'd be glad to help you out as best we can around those issues. We're not afraid of our statistics; we think we can defend them.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation. That uses up all the time. There were others who wanted to ask questions, but I'm just sticking to the schedule here. Thank you for your presentation.

UNITED STEELWORKERS

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our final presentation of this afternoon: the United Steelworkers union; Erin Weir. Good afternoon, and welcome.

Mr. Erin Weir: Thank you, Mr. Chair. The United Steelworkers union is primarily interested in the proposed Ontario Labour Mobility Act because we represent some workers in the provincially regulated trades. Of course, all of our members also rely on services provided by members of provincially regulated professions.

I greatly appreciate the opportunity to appear before this committee, but I'd also like to make an appeal for this committee to provide opportunities for more people to appear. I had an experience very similar to that of my brother from the IBEW. I found out about these hearings toward the end of the day yesterday. I understand that today is the only day of hearings on this important legislation. By comparison, I had participated in Saskatchewan's hearings in 2007 about whether or not to join the trade, investment and labour mobility agreement. In that case, we knew weeks in advance that the hearings were coming up and the hearings themselves lasted for two weeks. So I just believe it would be beneficial to the people of the province to have more extensive hearings on Bill 175.

I'll begin the substantive portion of my remarks by saying that the United Steelworkers union strongly supports labour mobility between provinces. Indeed, we believe that a very high degree of labour mobility already exists between Canadian provinces and we would be quite happy to support efforts to enhance that labour mobility by developing even higher occupational standards that would be acceptable to even more Canadian jurisdictions. However, Bill 175 is not needed to achieve labour mobility and, in fact, risks undermining Ontario's occupational certification standards.

The government has not really explained why this legislation is needed. To demonstrate that labour mobility is a significant problem for Ontario, one would need to do three things. First, one would need to show that there are shortages of workers in provincially regulated trades and professions. Second, one would need to identify barriers to labour mobility within those trades and pro-

fessions. Third, one would need to show that the labour shortages are caused by these barriers.

I'm just going to go through these three different elements. First of all, there is very little evidence of labour shortages in provincially regulated occupations. Certainly there is no overall shortage of labour in Ontario. The province currently has 669,000 officially unemployed workers; that's the largest number of unemployed workers ever in the history of Ontario.

In terms of supposed barriers, I have never seen a list of alleged barriers to labour mobility within regulated occupations. In fact, we already have many proactive programs designed to facilitate labour mobility. Of course, we have the red seal program, as has already been discussed, in the skilled trades. It has been noted that Quebec is not part of the red seal program, but Ontario already has a separate agreement with Quebec in the area of construction. By all accounts, that agreement is working very well for those skilled trades. Most regulated professions outside of the skilled trades are already subject to mutual recognition agreements whereby the various professional associations have negotiated compatible standards between different provinces.

So there are very few, if any, remaining barriers to labour mobility and there is no indication of any such barriers causing labour shortages, yet we see with the proposed Ontario Labour Mobility Act a very sweeping omnibus piece of legislation that would cover all provincially regulated occupations and contemplate financial penalties of up to \$5 million. I would characterize Bill 175 as trying to kill a fly with a sledgehammer. I would encourage the provincial government to put the sledgehammer down, draw up a list of the barriers to labour mobility that are believed to exist, and negotiate—or if necessary, legislate—specific solutions to those specific problems.

1530

My concern with this legislation is not only that it is unnecessary, but also that it threatens Ontario's existing occupational certification standards. The basic premise of the bill is that Ontario should automatically recognize credentials from other provinces. This approach is a problem where other provinces choose to train workers to lower standards or choose to require fewer qualifications to provide professional certification. This system of automatic mutual recognition fosters a race to the bottom. Essentially, the lowest standard in any province automatically becomes the minimum standard for every province.

In addition to this underlying logic of the bill, there's also a problem associated with giving legal force to the fines prescribed by the Agreement on Internal Trade's new labour mobility chapter. The bill also allows the provincial government to pass those fines along to professional associations, municipalities, and other regulators. I would submit that the possibility of such fines will have a chilling effect on regulators in Ontario. No official, whether they work directly for the provincial government or for one of these independent bodies,

wants to be the person who made a decision that leads to a fine of up to \$5 million. Under the proposed Ontario Labour Mobility Act, regulators are going to always err on the side of looser rules, and looser enforcement of those rules, in order to steer clear of these potential fines.

So, in addition to Ontario potentially having to accept lower standards enacted by other provinces, I believe there will be a more general erosion of Ontario's standards beyond that.

In conclusion, I would say that Bill 175 exposes Ontario to some risks without delivering any apparent reward. A much better approach would be to address specific problems that may exist on a case-by-case basis and to coordinate with other provincial governments in developing high, universally acceptable standards for more occupations.

Thanks again for your time.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much. That leaves about two minutes each per party. This time we'll start with the NDP.

Mr. Rosario Marchese: I'm going to take one minute, and then I'm going to leave my other minute for Kevin because he's going to need it.

A quick question to you, Erin, because I asked a previous deputant—section 6 says, “Nothing in this act restricts the crown from taking any action that it considers advisable in order to fulfill its ongoing commitment to the interprovincial standards red seal program...” I was arguing that there's nothing written in stone, there's nothing that obligates the crown to make sure that the red seal program is never touched and/or affected. In fact, it can take action or it can't, based on the wording that I just read out. Is that, in your view—

Mr. Erin Weir: Yes, your reading of that provision sounds right to me. It seems as though an attempt has been made to say some of the right things about the red seal program, both in this act and in the Agreement on Internal Trade's new labour mobility chapter. The question I would ask is, if the government is really committed to the red seal program, why include the skilled trades in this bill at all? Why not just leave them out and rely on the red seal program to be the standard in Ontario and across the country?

Mr. Rosario Marchese: Kevin is going to answer that.

The Chair (Mr. Lorenzo Berardinetti): Next in the rotation, we move to the Liberal Party. Mr. Flynn.

Mr. Kevin Daniel Flynn: I've been asking previous delegations the same questions, and we're getting these very vague bogeyman type of things—that there's something out there in some other province that we should be afraid of.

Under the AIT, which was first introduced by the NDP government—what we're trying to find out is, what is it that Ontario should be afraid of? What lower standard for the steelworkers, for example? I'm just trying to understand what that fear would be. Can you point me to a province or a trade or skill or something where we should say, “Well, we don't want that in Ontario, and if this bill

passes, we'd have to take them." My understanding of the bill is something entirely different.

Mr. Erin Weir: Well, I guess the first point I'd make on the issue of unidentified bogeymen is, what are the barriers to labour mobility that this bill is supposedly needed to address? It seems to me that the burden of proof should be on the side of those who are proposing the legislation to spell out what problem it's supposed to address. So I guess I see the bogeyman on the other side of the debate, but I'll try to provide a concrete example of the harm I fear this bill could do.

I already mentioned the trade, investment and labour mobility agreement between Alberta and British Columbia, which Ontario thankfully refrained from signing on to. BC has chosen to train many tradespeople to standards below red seal, while Alberta has continued to adhere to the red seal program. But as a result of TILMA, employers in Alberta now have to accept tradespeople trained in BC below red seal standards. I think that's a fairly solid example of what can happen when provinces have different standards in different areas and you say, "Ontario has to accept every other province's standard." It just opens the floodgates to our standards being undercut by other jurisdictions.

Mr. Kevin Daniel Flynn: That's what I'm trying to identify: the other jurisdictions. Who is coming in to undercut us?

Mr. Erin Weir: Well, British Columbia would be a key example of a jurisdiction that is choosing to train many tradespeople to standards below red seal. If you want to talk about the regulated professions as well—

Mr. Kevin Daniel Flynn: My understanding is that nine out of 10 apprentices in this country would be covered off under the red seal program.

Mr. Erin Weir: Certainly the larger provinces, including notably Ontario, have been training apprentices to red seal standards, and that's a good thing. That's exactly what we want to preserve.

Mr. Kevin Daniel Flynn: Exactly.

Mr. Erin Weir: I guess I would agree with you that the existing red seal program is working well and providing high standards and fluid labour mobility. Given that that's the case, why include the skilled trades in this act at all?

The Chair (Mr. Lorenzo Berardinetti): Okay?

Mr. Kevin Daniel Flynn: Yes, I'm done.

The Chair (Mr. Lorenzo Berardinetti): Mr. Bailey.

Mr. Robert Bailey: Thank you for your presentation. I too agree that they should have had more hearings and opportunities to travel so that people in different communities—I come from Sarnia-Lambton. I said before that I was responsible for high voltage—I think there are still some electricians in the room—and you didn't send just any electrician out to do 4160. You want to make sure they were trained on high voltage and that. The red seal program would assure that, and I'm sure that with other trades—I know the pipe trade as well, and other trades.

I share your concerns that this is being rushed through with not enough consultation. Like I said, I echoed earlier that this is the first time, the first committee I've been on, where everyone who has come in has more or less been against it. I haven't seen anyone really say this is a great thing. Everyone has some concerns. So I hope the government is listening to them. I'm sure the parliamentary assistant and the government members are. I know we're all listening, and I'm sure they are too—and that they'll maybe take this into consideration when we're drafting the amendments and approving them so there's some way we can make it better.

The Chair (Mr. Lorenzo Berardinetti): Thank you.

Mr. Robert Bailey: If you want to respond—

Mr. Erin Weir: Sure. Thanks for the comment. If there are further opportunities for our union to participate in reviewing this legislation, or hopefully amending it, we'd be happy to do that.

Mr. Rosario Marchese: It's clause-by-clause on Monday, Erin. It's over.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation.

Mr. Erin Weir: Thanks for having me.

The Chair (Mr. Lorenzo Berardinetti): I just want to remind all members that the deadline for amendments, as set by the House, is 12 noon on Friday. Please submit your amendments to the clerk of the committee. Legislative counsel is Joanne Gottheil—I hope I got it correct. Clause-by-clause is Monday, starting at 2 p.m., after routine proceedings.

This meeting is now adjourned.

The committee adjourned at 1537.

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Standing Committee on Justice Policy

Ontario Labour
Mobility Act, 2009

Comité permanent de la justice

Loi ontarienne de 2009
sur la mobilité
de la main-d'oeuvre

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Monday 7 December 2009

Lundi 7 décembre 2009

*The committee met at 1406 in committee room 1.*ONTARIO LABOUR
MOBILITY ACT, 2009
LOI ONTARIENNE DE 2009
SUR LA MOBILITÉ
DE LA MAIN-D'OEUVRE

Clause-by-clause consideration of Bill 175, An Act to enhance labour mobility between Ontario and other Canadian provinces and territories / Projet de loi 175, Loi visant à accroître la mobilité de la main-d'oeuvre entre l'Ontario et les autres provinces et les territoires du Canada.

The Chair (Mr. Lorenzo Berardinetti): We'll call this meeting to order. Welcome, everyone, to the justice policy committee. We're dealing with Bill 175, An Act to enhance labour mobility between Ontario and other Canadian provinces and territories.

Are there any comments, questions or amendments to any section of the bill and, if so, to which section? We all have a package in front of us. Before we start, Mr. O'Toole.

Mr. John O'Toole: I want to thank members of the committee for a slight privilege, if you will. I just want to put on the record a concern. I am familiar with the bill; I know how important it is for our economy. There's one section that I have made two comments on in the House: part II, the labour mobility section. That's the part that I'm commenting on and I'll read it.

In the Ministry of Training, Colleges and Universities, they have the tools to ensure that quality and standards from other provinces and jurisdictions are at least equal to or greater than Ontario standards, specifically in reference to opticians training in British Columbia, where training is six months, versus Ontario, where it's a two-year program.

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Furthermore, the college of opticians must take every action necessary to ensure that the professional standards of Ontario's opticians are maintained, not eroded. Furthermore, Ontario community colleges are capable of developing a bridge program as well as practicums, thereby ensuring that the quality of eye care in Ontario remains high.

There's some ambivalence when reading the section—and I should say that I thank you for that indulgence, and

I will leave a copy for Hansard—but there was an agreement signed in 2001 by NACO, which is the National Accreditation Committee of Opticians—an association. And that agreement, which I have a copy of, talks to this harmonization of standards. When there are two levels of standards, the college has a role to optimize the standards.

I want that on the record on behalf of the opticians in my riding of Durham. This is no different than some of the other amendments moved today to make sure that standards are maintained, like the red seal program, which would be a good example. We'd be in support of those standards.

With the indulgence of the committee, I am on duty, but our member Bob Bailey—I might be back because there are so few of us anymore to—

Mr. David Zimmer: The vanishing breed, the Tories.

Mr. John O'Toole: Thank you very much for your indulgence, Mr. Zimmer.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any discussion on that? Thank you for that.

We'll start, then, with our package. Everyone should have the same package here that we're working from. I think it's 44 pages long—it appears to be.

Interjections.

The Chair (Mr. Lorenzo Berardinetti): It's the hard copy, as opposed to the electronic one. I think everyone was provided with a hard copy. It's a bit different than the electronic one. Just so that we're all reading from the same set of amendments.

The first one is on page 1. It's an NDP motion. Mr. Marchese.

Mr. Rosario Marchese: I move that section 1 of the bill be struck out and the following substituted:

"Purpose

"1. The purpose of this act is to eliminate or reduce measures established or implemented by Ontario regulatory authorities that restrict or impair the ability of an individual to become certified in Ontario in a regulated occupation in which the individual is certified in another province or territory of Canada"—and this is where the relevant part comes in—"without reducing or undermining current or future occupational standards established in Ontario."

That's the part that's most critical here. I think every deputant who came before our committee was very concerned about how this bill might reduce or even

undermine occupational standards, and so we wanted to include language that speaks to that, and I think this helps to do that. I'm hoping the government will support it.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion? Mr. Flynn.

Mr. Kevin Daniel Flynn: I appreciate the intent of the amendment; however, we won't be supporting it. We think it's unnecessary. Both the AIT and Bill 175 already preserve the ability of the regulatory authorities within Ontario to set standards that are necessary to protect the public in Ontario. It's implicit in the bill.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion? Mr. O'Toole.

Mr. John O'Toole: I appreciate the NDP amendment. I guess the thrust, basically, throughout this is that everyone on the opposition side is in favour of enhancing our economy through the tools of labour mobility. We see this as the economy ebbs and flows.

In this case, what we are most concerned about is that we not reduce standards. In many cases—and I think the members on the government side would agree with this—Ontario has been the lead because we have a much fuller economy. We're probably a third of the population of the country and probably 50% of the economy of the country. We used to be anyway, without getting into the economy argument. So in that case, we'll likely support this amendment, with that tone in mind. Do you agree with that, Bob?

The Chair (Mr. Lorenzo Berardinetti): Mr. Marchese?

Mr. Rosario Marchese: Just briefly, I wanted to say to the parliamentary assistant that I don't believe that what he says is correct at all. I think the intent of the bill everywhere—even though there are some conditions in terms of what regulatory boards, municipalities and non-governmental bodies can do, much of what is in this bill is about making sure that nothing that is done prevents the expeditious certification of an individual who comes from outside of the province, and that measures carried out by the Ontario regulatory authority must not be a disguised restriction on labour mobility.

The language and penalties of this bill around this issue are very clear. It's about making sure that anybody who comes from outside, from another province, can be employed whether the standards are equal or not. I'm not quite sure why this language is unacceptable to the government. I disagree with the parliamentary assistant and the government on this.

The Chair (Mr. Lorenzo Berardinetti): Any other discussion? Mr. Flynn.

Mr. Kevin Daniel Flynn: I'm sure we'll have ample opportunity to disagree and agree as we move through this. But clearly the intent of the government in this regard is not to lower standards. The intent is to make sure that we meld those standards, that we maintain those standards and make it easier for people to move around the country and practise a profession up to the Ontario standards we're accustomed to. That's clearly the intent.

The Chair (Mr. Lorenzo Berardinetti): Mr. O'Toole.

Mr. John O'Toole: Thank you, Chair, for your indulgence in allowing us to speak twice on an amendment.

I think that setting the stage at an early point is very important. If there are exemptions—one case I'm familiar with is opticians, which is a profession with a college, and as such is self-regulatory. If you look at subsection 2(9), there's a provision for them to require additional training or other accommodations.

Another profession is chartered accountants. In Ontario the public audit function is provided, by statute, only by chartered accountants. The other designations in financial auditing, like certified management accountants or CGAs, are not allowed to do that. That was an issue of a government report at one time, done by an honourable justice, yet they still have the monopoly.

If you really want a market type of economy with the skills having standards, then how can you fault this point? And if you make exceptions for any one group, then you're not being consistent with what you're trying to achieve. I'll be interested in the submission on the CAs, to see if you make any room there.

This is meant in the best of spirits, quite honestly. We'd like to think that when we're the government, the economy is turned around and there is an import of labour as opposed to an export of labour. But that's for another day.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion or debate? None? I'll put the matter to a vote.

Shall the motion carry? All those in favour? Opposed? That does not carry.

That was the only amendment regarding section 1, so I'll put the question. Shall section 1 carry? All those in favour? Opposed? Carried.

Section 2: On page 2, we have an NDP motion. Mr. Marchese.

Mr. Rosario Marchese: I move that the definition of "Agreement on Internal Trade" in subsection 2(1) of the bill be struck out.

This is an agreement that came into effect, or at least was agreed to by provinces, territories and everyone else in late 1994. It's just an agreement, not a law, not a bill.

British Columbia and Alberta created a trade, investment and labour mobility agreement, called TILMA, that everyone else in Canada rejected. What we notice here is that this agreement and Bill 175 appear to be the vehicle to bring in the trade, investment and labour mobility agreement through the back door in every province.

Even Madame Papatello—I forgot to bring her quote, and I didn't want to delay the committee—was stating a concern around this and talked about how we still don't know how the dispute mechanism is going to work. She was very concerned about the dispute mechanism: how that might work and how that might affect things. She herself stated these concerns—it's not yet tested; it has yet to be tested—and until then, both she, as the minister, and I are very, very concerned. Of course, she stated that concern a while ago, and in the meantime they brought in this bill. Perhaps Madame Papatello has changed her mind; I don't know.

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The Ontario government has signed on to the Agreement on Internal Trade, containing every provision that's included in the British Columbia-Alberta agreement that no one else supported. While the Agreement on Internal Trade is not a legally binding document, Bill 175 is an attempt to make it so. It will enshrine it in law. That's something that concerns us; it's something the Ontario government doesn't have to do. No other province has done this.

This is the only province that includes \$5-million penalties for non-compliance. Nobody else has done it. The \$5-million compliance figure is an incredible amount of money intended to scare. As one deputant, an economist, stated in this committee, it will bring a chill to everyone in terms of how it will scare everyone who is not complying: You'd better comply and you better not make a mistake; otherwise, you're subject to a \$5-million fine, a huge amount of money.

We're talking about municipalities, NGOs and ministries that don't have the resources to check out the standards of other provinces. We don't even have the resources in our own province to check out our own standards vis-à-vis the private sector and what it does, let alone the public sector and what we're able to monitor. We can't even do that job properly, let alone monitor what other provinces are doing.

What we wanted to do by this is make sure we remove every possible reference to the Agreement on Internal Trade as a way of expunging it, as a way of weakening it, as a way of saying we don't need to buy in to this, and I suspect the government will not support it. That is the reason I'm making a case for this, Mr. Chair.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? Mr. Bailey, and then we'll go to Mr. Flynn.

Mr. Robert Bailey: I'd like to say that we have concerns in our caucus as well about the penalties that could be implemented for colleges, so I'd like to express my support for change in that area.

The Chair (Mr. Lorenzo Berardinetti): Mr. Flynn?

Mr. Kevin Daniel Flynn: I think this is just a basic either you support the bill or you don't, or you support the intent of the bill or you don't. We on this side of the House support the intent of the bill in how it coincides with the Agreement on Internal Trade. If you're going to pass the bill—and we hope this bill is passed as proposed, with some amendments, today—you need to preserve the integrity of the bill as well. If we did what Mr. Marchese is asking us to do, I think the bill would simply have no intent or integrity left. Maybe that's what he wants, but that's certainly not what the government wants.

The Chair (Mr. Lorenzo Berardinetti): Mr. Marchese.

Mr. Rosario Marchese: Just to remind you: Most of the deputants, with one exception, felt there was a problem with this bill. There was nobody who agreed with this government. There is no integrity if you have nobody supporting it. This is a party that supports itself,

obviously, in terms of internal investment trade agreements. It's clearly something they like; I understand that. But you would hope they would have at least one or two of their own friends come on short notice—because there wasn't much notice—and say, "We love this bill." There was no one who said, "We love this bill." Not one. If you don't have deputants who support you, it means there is no integrity in the bill. There is no integrity in this bill because the government refuses to even debate this bill on third reading.

After this bill is done clause-by-clause, it goes directly to a vote. We always have third reading debate where the government is allowed to make a case for why we're doing this. They're dispensing with third reading debate and going straight to a vote. There is absolutely no integrity in this bill. That's why we're trying to kill it. He's absolutely right.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? Then we'll take a vote on the motion.

Mr. Rosario Marchese: A recorded vote, please.

Ayes

Bailey, Marchese.

Nays

Aggelonitis, Flynn, Lalonde, Levac, Zimmer.

The Chair (Mr. Lorenzo Berardinetti): That does not carry.

Let's move on to page 3 of our package. This is a government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that the definition of "authorizing certificate" in subsection 2(1) of the bill be struck out and the following substituted:

"'authorizing certificate', in relation to an occupation, means,

"(a) a certificate, licence, registration, or other form of official recognition, granted by a regulatory authority to an individual, which attests to the individual being qualified to practise the occupation and authorizes the individual to practise the occupation, use a title or designation relating to the occupation, or both, or

"(b) a certificate, licence, registration, or other form of official recognition, granted by a regulatory authority to an individual, which attests to the individual being qualified to practise the occupation but does not authorize the practice of the occupation or the use of a title or designation relating to the occupation, if the occupation and the regulatory authority granting the certificate, licence, registration or other form of official recognition respecting the occupation are prescribed for the purpose of this clause; ('certificat d'autorisation')"

Clause 2(1)(b) allows for the identification of an authorizing certificate that otherwise would not be captured under the definition in 2(1)(a), i.e., we're talking about some trades that have already been grandfathered for labour mobility under the Ontario-Quebec construction

agreement. In addition to that, the ability to prescribe additional regulatory authorities as a technical amendment would allow for the prescribing of specific occupations from specific jurisdictions.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion or debate? None? I'll put the motion to a vote. All those in favour? Opposed? That carries.

We'll move to page 4, an NDP motion. Mr. Marchese.

Mr. Rosario Marchese: I move that the definition of "out-of-province regulatory authority" in subsection 2(1) of the bill be amended by striking out "that is a party to the Agreement on Internal Trade".

I already made my case on that one, Mr. Chair.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion or debate?

Mr. Kevin Daniel Flynn: I make the same opposing case.

The Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Flynn. We'll put it to a vote, then. All those in favour of the motion? Opposed? That does not carry.

The next question is, shall section 2, as amended, carry? All those in favour? Opposed? That carries.

There are no amendments, members of the committee, from sections 3 to 5, so we'll put them together. I'll just put the question. Shall sections 3 to 5 of this bill carry? All those in favour? Opposed? That carries.

Now we're on to section 6. That's on page 5 of our package. Mr. Marchese.

Mr. Rosario Marchese: I move that section 6 of the bill be amended by striking out "referred to in article 707 of the Agreement on Internal Trade" at the end.

Mr. Chair—I'm just going to get section 6 for a second—this is something that the compulsory trades coalition has spoken to as part of their deputation. This is a big part of their concern. That article—chapter 7, at least—refers to labour mobility, and there's a long list of things that it affects, including a section that the compulsory trades coalition makes reference to in article 707 under "Licensing, Certification and Registration of workers," which makes sure that we maintain the integrity of the trades.

We believe that this amendment is a good one. I have to say that I stated concerns in section 6—in spite of the removal of article 707 of the Agreement on Internal Trade, I still have concerns, because it says that nothing in this act restricts the crown from taking any action that it considers advisable. The case I made in committee was that it isn't proactive. It doesn't say that we are going to enshrine the red seal program. It doesn't say that the ministry is committed to it and it will not be touched. The language isn't as clear as I would have liked it to have been, but removing the reference to article 707 of the Agreement on Internal Trade helps a great deal. We understand the government may be supporting it, so at least there's a partial victory in this regard.

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The Chair (Mr. Lorenzo Berardinetti): Any further discussion?

Mr. Kevin Daniel Flynn: I think Mr. Marchese offers us some wise counsel here, and I think the amendment is one that is worthy of the support of all members that are here today. The Coalition of Compulsory Trades certainly supports this, and it made a very compelling case in this regard. As a government that likes to listen to good ideas, we should be supporting this one.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Bailey.

Mr. Robert Bailey: I'd like to also indicate our support for the red seal program and Mr. Marchese's motion.

Interjection: Recorded vote, please.

Ayes

Aggelonitis, Bailey, Flynn, Lalonde, Levac, Marchese, Zimmer.

The Chair (Mr. Lorenzo Berardinetti): There are none opposed, so the motion carries unanimously.

That takes care of section 6 of the bill. So the next question is, shall section 6, as amended, carry? All those in favour? Opposed? That carries.

The next motion is on page 6. It's an NDP motion, and it's Mr. Marchese's motion.

Mr. Rosario Marchese: I move that part I of the bill be amended by adding the following section after section 6:

"Agreement does not become law

"6.1 Nothing in this act gives the force of law to the Agreement on Internal Trade signed in 1994 by the governments of Canada, the provinces of Canada, the Northwest Territories and the Yukon Territory, as amended from time to time."

I think it's self-explanatory.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion?

Mr. Kevin Daniel Flynn: We will not be supporting this. We understand where it comes from, that its substance would be found in the BC labour mobility legislation that my friend talks about on frequent occasion. BC took a much different approach than the province of Ontario is proposing here. It's not the model that's being proposed in the bill that's before us today, Bill 175. There is no requirement or provision, really, that's necessary to limit private enforceability rights, as is the practice in British Columbia.

The Chair (Mr. Lorenzo Berardinetti): Further discussion? We'll put it to a vote, then. All those in favour of the motion? Opposed? That does not carry.

Sections 7 and 8, there are no amendments too, so I'll put—I'm sorry, there's one under section 8.

There are no amendments in section 7, so I'll just put the question. Shall section 7 carry? All those in favour? Opposed? Carried.

We'll go to page 7 here. There's a notice regarding section 8, and it's an NDP notice.

Mr. Rosario Marchese: We're just going to vote against it, Mr. Chair. It's not really a motion.

Section 8 says, “No Ontario regulatory authority shall require that an individual reside in Ontario as a condition of being certified in a regulated occupation, if the individual resides in another province or territory of Canada that is a party to the Agreement on Internal Trade.” We just disagree with that section altogether. We’re just going to vote against it.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion?

Mr. Kevin Daniel Flynn: We appreciate the disagreement, but we will support it.

The Chair (Mr. Lorenzo Berardinetti): Then we’ll put a vote to section 8. Shall section 8 carry? All those in favour? Opposed? That carries.

We move on to section 9, which is on page 7. It’s a government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: I would note that my friend from the NDP has a very similar, if not exactly the same, amendment before us, and we’d be prepared to support either one. But at this point in time, we’ll read ours into the record and have a vote. But I did want it on the record that the two amendments are very similar, if not exactly the same.

Interjection.

Mr. Rosario Marchese: It doesn’t matter.

The Chair (Mr. Lorenzo Berardinetti): How would you like to proceed?

Mr. Kevin Daniel Flynn: I can withdraw ours, and we can move the NDP’s. We’re quite happy to do that, or we’re quite happy to move ours.

Interjection.

The Chair (Mr. Lorenzo Berardinetti): I need unanimous consent to withdraw number 7 if you want to—

Interjection.

The Chair (Mr. Lorenzo Berardinetti): You just want to withdraw it, then?

Mr. Dave Levac: Yes.

The Chair (Mr. Lorenzo Berardinetti): We’ll move on, then, to page 8. Mr. Marchese.

Mr. Rosario Marchese: I move that paragraph 2 of subsection 9(5) of the bill be struck out and the following substituted:

“2. If the condition set out in paragraph 2 of subsection (6) is met, provide a certificate, letter or other evidence from every out-of-province regulatory authority by which the individual is currently certified in the occupation, confirming that the authorizing certificate that the regulatory authority granted to the individual for the occupation is in good standing.”

I’m not quite sure whether we have satisfied the request made by the college, but here we have it. We thought it did, but we got word from them that perhaps the language isn’t exactly what they wanted.

Just to read it for the record: “The government motion makes matters worse in that it re-specifies the colleges are entitled to ask for certificates from the body from whom the applicant currently holds an out-of-province certificate. The word ‘currently’ was not used in the previous iteration. We were asking to make it clear that

we can request certificates from all jurisdictions in which the member practised or trained.”

We thought we had their concerns taken into account, but perhaps we didn’t. I just wanted to state that for the record. We did our best, perhaps.

The Chair (Mr. Lorenzo Berardinetti): Mr. Flynn

Mr. Kevin Daniel Flynn: I’d agree with Mr. Marchese. The intent was to rectify what we saw as a drafting inconsistency between the language and the section of the bill we’re examining today and the relevant sections of the Regulated Health Professions Act. It also should address some of the concerns that we heard from other presenters last week. So, we will be supporting Mr. Marchese’s motion.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Further discussion? None?

So we’ll put it to a vote, then, on page 8. Shall the motion carry? All those in favour? Opposed? That carries.

Let’s move on to page 9.

Mr. Rosario Marchese: Withdraw, Mr. Chair.

The Chair (Mr. Lorenzo Berardinetti): Withdrawn? Okay, fine.

There’s a notice here regarding section nine.

Mr. Rosario Marchese: Yeah, we’re just going to vote against it.

The Chair (Mr. Lorenzo Berardinetti): Okay. Then the question is, shall section 9, as amended, carry? Those in favour? Opposed? Carried.

We go then to the next page, regarding section 10. Shall section 10 carry? All those in favour? Opposed? Carried.

Section 11: Shall section 11, carry? All those in favour? Opposed? Carried.

Section 12: On page 10 of our package, there’s an NDP motion. Mr. Marchese.

Mr. Rosario Marchese: I move that subsection 12(1) of the bill be amended by adding “and” at the end of clause (a) and by striking out clause (b).

Clause (b) says the following for the record: “take steps to reconcile differences between the occupational standards it has established for an occupation and occupational standards in effect with respect to the same occupation in the other provinces and territories of Canada that are parties to the Agreement on Internal Trade.”

This is, for us, an offensive part of the bill because we see this as the reduction of standards overall. The goal of this bill is to reconcile differences, no matter what. Even if standards are different, it says that the intent of this bill is to take steps to reconcile differences no matter what. This is what this is about. We made that case during the hearings of that afternoon, and we make it today. We just want to take it out.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? Mr. Flynn.

Mr. Kevin Daniel Flynn: Obviously we don’t agree. I think we’re sort of getting back to the genesis and the reason of the bill. It’s important to note the language clearly states in the first line that it’s “to the extent possible and where practical” when dealing with the

regulatory authorities. I think it's reasonable to support this.

Mr. Rosario Marchese: Recorded vote.
1440

Ayes

Marchese.

Nays

Aggelonitis, Bailey, Flynn, Lalonde, Levac, Zimmer.

The Chair (Mr. Lorenzo Berardinetti): So that does not carry.

We move to page 11. Page 11 deals with subsection 12(3). Mr. Marchese?

Mr. Rosario Marchese: I move that section 12 of the bill be amended by adding the following subsection:

"No lowering of Ontario standards

"(3)"—this is in addition to that section—"In carrying out subsection (1), an Ontario regulatory authority shall not lower, or agree to the lowering of, any occupational standard that is appropriate to protect the public."

I just think, Kevin Flynn, parliamentary assistant, that this is a very reasonable—as you have said often this afternoon—request. It should not affect the content of the bill at all. It says that, "In carrying out subsection (1), an Ontario regulatory authority shall not lower, or agree to the lowering of, any occupational standard that is appropriate to protect the public." I'm assuming that that is the intent of the bill and that you would like it and agree to it.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? Mr. Flynn?

Mr. Kevin Daniel Flynn: It is very reasonable. It's so reasonable we've included it already and the amendment is actually unnecessary. I guess that's the point: We're saying the same thing differently.

Clearly, both the AIT and the bill we have before us, Bill 175, preserve the ability of the regulatory authorities within the province of Ontario to set the standards that are necessary, as they're doing today, to protect the Ontario public. That's implicit in this bill. So the amendment, as reasonable as it is, is really—I think that the spirit of the amendment is included already and the amendment is unnecessary.

The Chair (Mr. Lorenzo Berardinetti): Mr. Marchese?

Mr. Rosario Marchese: Just quickly: Kevin says it's implicit. "Implicit" means it's not explicit. But he argues that it's included somewhere in the bill, elsewhere. That's fine. If this is a bit redundant, that's okay. If we have already said it elsewhere and we're saying it again, make me feel good and simply include it. If it does nothing but to enhance what you have already said implicitly elsewhere, then let's just join hands again and include it.

The Chair (Mr. Lorenzo Berardinetti): Mr. Bailey?

Mr. Robert Bailey: I'd like to indicate my support for Mr. Marchese's point.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Flynn?

Mr. Kevin Daniel Flynn: He's just trying to make you feel good.

No, I understand where it's coming from, but it's unnecessary. What Mr. Marchese is saying should be included in the bill is included in the bill, and adding the extra verbiage is unnecessary.

Mr. Rosario Marchese: Recorded vote.

Ayes

Bailey, Marchese.

Nays

Aggelonitis, Flynn, Lalonde, Levac, Zimmer.

The Chair (Mr. Lorenzo Berardinetti): That does not carry.

The next question is: Shall section 12 carry? All those in favour of section 12? Opposed? That carries.

There are no amendments for section 13, so shall section 13 carry? All those in favour? Opposed? Carried.

We'll move on to section 14. There's a notice here. Mr. Marchese?

Mr. Rosario Marchese: Yes, just to make the point, because I'm going to be voting against it: Section 14 talks about, "If the labour mobility code conflicts with an Ontario regulatory authority's authorizing statute or an instrument of a legislative nature made under that statute, the labour mobility code prevails to the extent of the conflict." I just wanted to state for the record that I disagree with this strongly, because we think other regulatory authorities or other statutes might give us the confidence we want around labour standards and other standards that this may not. That's why I'm voting against it.

The Chair (Mr. Lorenzo Berardinetti): Further discussion? None? So we'll take a vote. All those in favour of section 14? Opposed? That carries.

Section 15: There's another notice here. Mr. Marchese?

Mr. Rosario Marchese: I'm just going to vote against it.

The Chair (Mr. Lorenzo Berardinetti): All right. Shall section 15 carry? All those in favour? Opposed? That carries.

We'll move on to section 16. There's an NDP motion on page 12.

Mr. Rosario Marchese: I move that paragraphs 4, 5 and 6 of subsection 16(1) of the bill be struck out.

This section refers to the power that monitors have, this new power that you're creating through this monitor to be able to make sure there's compliance. I just find it offensive, as I do the \$5-million penalties. It's unbelievable, the extent to which this government is going to make sure that this bill works according to the way they want. It's going to frighten the beegees out of ministries,

municipalities and NGOs to make sure they do what they want. I've never seen anything like it. In many other bills, we worry that there are not enough inspectors to make sure that we have compliance or ensuring compliance, yet in this bill, the government has no problem instituting hefty fines, including the hiring of monitors, to make sure compliance is in place.

Just for the record, I will be opposing it and opposing it vigorously.

The Chair (Mr. Lorenzo Berardinetti): Mr. Zimmer.

Mr. David Zimmer: Mr. Rosario said something about—

The Chair (Mr. Lorenzo Berardinetti): Mr. Marchese.

Mr. David Zimmer:—"scare the beegees." What does that mean? For the record, I want to understand.

Mr. Rosario Marchese: The lawyers need to have clear language. The beegees or the weegees—

Mr. David Zimmer: What does that mean?

Mr. Rosario Marchese: I'll leave it to your imagination. Move on, Mr. Chair.

The Chair (Mr. Lorenzo Berardinetti): Okay. That's his answer. I'm sorry; I can't force him to answer any further than that.

We'll vote on the motion. This is the NDP motion on page 12. All those in favour? Opposed? That does not carry.

Go to page 13. Page 13 is an NDP motion. Mr. Marchese.

Mr. Rosario Marchese: I move that subsection 16(2) of the bill be struck out. This subsection speaks to:

"Duty to comply

"(2) If the monitor requests the regulatory authority to do anything under subsection (1), the regulatory authority shall comply with the request within such time and in such manner as the monitor may specify."

Again, the incredible power we give to the monitor to make sure compliance happens. In very few other bills do we have such power, where we ask the government to say, "Make sure that we have enough inspectors to ensure compliance," yet here they have tremendous power—unbelievable. I'm voting against, vigorously, if one can vote against vigorously.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None. So we'll take a vote.

Mr. Rosario Marchese: On a recorded vote.

Ayes

Bailey, Marchese.

Nays

Aggelonitis, Flynn, Lalonde, Levac, Zimmer.

The Chair (Mr. Lorenzo Berardinetti): That does not carry.

The next question is: Shall section 16 carry? All those in favour? Opposed? Carried.

We'll move on to section 17. We have an NDP notice here. Mr. Marchese.

Mr. Rosario Marchese: Again here, 17 says, "If the monitor for a non-governmental regulatory authority makes a request under paragraph 2 of subsection 16(1) and the regulatory authority does not comply with the request within the time and in the manner specified by the monitor, the Lieutenant Governor in Council may make, amend or revoke the instrument in question for the purpose of ensuring that it conforms with the labour mobility code."

Not only do we give the monitor incredible power, but if the monitor fails in his grasp and power to get a regulatory authority to comply, we've got the Lieutenant Governor in place to make sure that they come hard on compliance. It's just unbelievable. I don't know, Kevin. Maybe you've got a comment on it. Why do you think we need these powers? Why do you think we need that section at all? Doesn't the monitor give you enough shoulders to make sure compliance is in place? You need more power?

The Chair (Mr. Lorenzo Berardinetti): Mr. Flynn.

Mr. Kevin Daniel Flynn: The intent is quite clear. We have a difference of opinion, and I appreciate that. Mr. Marchese, I think, would vote against the entire bill.

Mr. Rosario Marchese: This is true.

Mr. Kevin Daniel Flynn: I think, in a way, he has. But I think if you're going to have a bill, you want to make sure that the Ontario taxpayers are protected, and you want to make sure that you bring in the maximum protection when you're implementing the bill. We're implementing the bill right now. We're going through it clause by clause. Now is the time when you protect the Ontario taxpayer. That's exactly what we're doing here.

The Chair (Mr. Lorenzo Berardinetti): Mr. Marchese. 1450

Mr. Rosario Marchese: This is not about protecting the taxpayer; this is about making sure compliance happens. Compliance has to do with a non-resident coming to our province, qualified or not, adequately or inadequately; how, even if there's some semblance of adequacy, we're going to have to hire that person. That's what that is. This is not protecting the taxpayer of Ontario. This is anything but protecting the taxpayer.

Mr. David Zimmer: Oh, Rosario, you've got it wrong.

The Chair (Mr. Lorenzo Berardinetti): Mr. Flynn.

Mr. Kevin Daniel Flynn: Unqualified people will not get the classification that they want in the province of Ontario. This is not the race to the bottom that others have said; it's a race to the top. Ontario's standards will be maintained. In the vast majority of circumstances, Ontario's standards will become the benchmark.

The Chair (Mr. Lorenzo Berardinetti): Further discussion? Mr. Marchese.

Mr. Rosario Marchese: I was just trying to find language here on page 7 where you have different—what

section is that? It's on page 7 of the bill, paragraph 3 of subsection 9(5): "If the conditions set out in subsection (6) are met, demonstrate knowledge of matters applicable to the practice of the regulated occupation...." Imagine; it says, "demonstrate knowledge of matters." So someone can demonstrate knowledge and that's enough. Or paragraph 1 of subsection 9(6), where they talk about that the "out-of-province regulatory authority must be the same as, or substantially similar"—it doesn't have to be similar, but substantially. If they demonstrate knowledge, that's enough. If they're substantially similar, it's enough. They're not the same; that's the problemo that I state.

The Chair (Mr. Lorenzo Berardinetti): Any other discussion? None? So we'll take a vote on section 17. Shall section 17 of the bill carry? All those in favour? Opposed? That carries.

We'll go to the next page of our package here. It's regarding section 18. It's an NDP notice.

Mr. Rosario Marchese: For the record, again, 18: "If the monitor for a non-governmental regulatory authority believes that the regulatory authority has contravened subsection 16(2), the monitor may serve an order on the regulatory authority ordering it to pay an administrative penalty in accordance with the regulations made under this act." It's amazing, the punitive power this person has to make sure there's compliance. I'm voting against it.

The Chair (Mr. Lorenzo Berardinetti): Further discussion? Mr. Flynn.

Mr. Kevin Daniel Flynn: The intent of all this clearly is to promote compliance in the first place. It's not to award penalties; it's not to go to that stage; it's to encourage compliance. I think that's reasonable.

The Chair (Mr. Lorenzo Berardinetti): Further discussion? None? We'll take a vote. Shall section 18 carry? All those in favour? Opposed? That carries.

Interjections.

The Chair (Mr. Lorenzo Berardinetti): The next page regards section 19—order, please. We're on section 19 now. This is an NDP notice. Mr. Marchese.

Mr. Rosario Marchese: This section has to do with the enforcement of an administrative penalty. It's about penalties; it's about \$5 million; it's about making sure people comply; it's about making sure these regulatory bodies, municipalities, NGOs, comply in silence. Do not dare to not comply because if you do and you're found to be in non-compliance you're going to get whacked with five million bucks. I'm voting against that as well.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? Mr. Flynn.

Mr. Kevin Daniel Flynn: It's just a sign that we're serious about this. We don't want \$5-million fines; we want compliance in the first place.

The Chair (Mr. Lorenzo Berardinetti): We'll take a vote. All those in favour of section 19? Opposed? That carries.

We'll move on to section 20. It's an NDP notice. Mr. Marchese.

Mr. Rosario Marchese: Sorry, I thought it was a PC motion.

The Chair (Mr. Lorenzo Berardinetti): We're on section 20. I think the next one, section 21 after that, is the PC one.

Mr. Rosario Marchese: Oh, I'm just voting against it.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion on that? None? So we'll just take a vote on section 20. Shall section 20 carry? All those in favour? Opposed? That carries.

The Chair (Mr. Lorenzo Berardinetti): We move to section 21. On page 14 of our package, there's a PC motion. Mr. Bailey.

Mr. Robert Bailey: I move that subsection 21(1) of the bill be struck out and the following substituted:

"Right of recovery by crown

"21(1) If the crown in right of Ontario is ordered to pay a penalty or tariff costs under a final order made by a presiding body established or convened under the Agreement on Internal Trade, and the order is wholly or partially the result of noncompliance with the labour mobility code by a non-governmental or municipal governmental regulatory authority acting in bad faith, or noncompliance with sections 22.15 to 22.23 of schedule 2 to the Regulated Health Professions Act, 1991 by a college, as defined in that act, acting in bad faith, the crown has the right to recover from the regulatory authority or the college, as the case may be, the proportion of the amount paid by the crown under the presiding body's final order that is attributable to the bad-faith noncompliance of the regulatory authority or college."

The rationale behind this, Mr. Chair and committee, is that the colleges should only be held liable for breaching the Agreement on Internal Trade if they do so intentionally. The government has already advised us that it would only seek to recover penalties from a college if it did not act in good faith. This would amend the bill to reflect the government's statement.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Any further discussion?

Mr. Rosario Marchese: We have the same amendment. The government's motion is obviously different. Our motion speaks to the proportion of the amount paid by the crown and the government's says the whole amount. The government wants to go whole hog here. They just want to make sure they hit them and they hit them hard; right? Our motion talks about proportionality, which would exclude the part where the crown is entitled to recover amounts liable under the AIT for failing to comply with subsection 5(2) of the RHPA. We think it's a much more reasonable amendment to make.

The Chair (Mr. Lorenzo Berardinetti): Thank you.

Mr. Kevin Daniel Flynn: It looks like all three parties took a run at 21(1), trying to make some changes to it as a result of the people who came forward and suggested that changes be made. We looked at the PC motion that we have the floor before us, and we also looked at the NDP motion that comes after the government motion. At some point, I'll be making the argument that we think

we've struck the right balance in the motion being put forward by the government.

We feel that bringing in the standard of bad faith just adds a complexity to the bill that is unnecessary right now. We can deal with the issues that both parties have raised, I believe, by passing our version of the amendment that is on page 15, I think, which will follow after this.

Mr. Rosario Marchese: Recorded vote.

Ayes

Bailey, Marchese.

Nays

Aggelonitis, Flynn, Lalonde, Levac.

The Chair (Mr. Lorenzo Berardinetti): That does not carry.

We'll then go to page 15, which is a government motion.

Mr. Kevin Daniel Flynn: I move that subsection 21(1) of the bill be struck out and the following substituted:

"Right of recovery by crown

"21(1) If the crown in right of Ontario is ordered to pay a penalty or tariff costs under a final order made by a presiding body established or convened under the Agreement on Internal Trade, and the order is wholly or partially the result of noncompliance by a municipal governmental regulatory authority with the labour mobility code, non-compliance by a nongovernmental regulatory authority with the labour mobility code and with subsection 16(2), or noncompliance by a college, as defined in the Regulated Health Professions Act, 1991, with any of sections 22.15 to 22.23 of schedule 2 to that act and with subsection 5(2) of that act, the crown has the right to recover from the regulatory authority or the college, as the case may be, the amount paid by the crown under the presiding body's final order."

The motion that we've put forward responds to concerns that were raised by a number of delegations at the public meetings. It clarifies that the right to recovery that is envisioned is limited to those instances where the penalty imposed on Ontario is the actual result of non-compliance of a regulatory authority with a previous request from the government, in addition to noncompliance with a labour mobility code.

1500

If the members will recall, groups like CPSO and the law society raised this. It adds another criteria and it's really to be used in those times when a regulatory authority simply refuses to comply with the provisions.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion on this motion? None? So we'll take the vote. All those in favour of the government motion? Opposed? That carries.

The one on page 16, I think is—

Mr. Rosario Marchese: Withdrawn.

The Chair (Mr. Lorenzo Berardinetti): It's withdrawn. Thank you. We'll move on to page 17.

Before we do that, shall section 21, as amended, carry? Those in favour? Opposed? That carries.

I'm sorry. My apologies. There was one more item here.

Mr. Rosario Marchese: Yes. I withdraw that.

The Chair (Mr. Lorenzo Berardinetti): You withdraw that one? Okay, thank you. And then there's a notice as well which just says you're recommending voting against.

Mr. Rosario Marchese: Just voting against, yes. No problemo.

The Chair (Mr. Lorenzo Berardinetti): Okay. Then I'll ask the question again. Shall section 21, as amended, carry? Those in favour? Opposed? That carries.

We'll move on to section 22 on page 18.

Mr. Rosario Marchese: Withdrawn.

The Chair (Mr. Lorenzo Berardinetti): It's withdrawn? Okay, thank you.

So then the next motion is on page 19. It's an NDP motion, Mr. Marchese.

Mr. Rosario Marchese: I'll just be voting against this section.

The Chair (Mr. Lorenzo Berardinetti): Okay.

Mr. Rosario Marchese: It's "Enforcement of payment order."

The Chair (Mr. Lorenzo Berardinetti): This is section 22.20 on page 19.

Mr. Rosario Marchese: I thought we were on section 23.

The Chair (Mr. Lorenzo Berardinetti): We're almost there, but this is on page 19. This is the package that was the hard copy. There's an NDP motion regarding subsection 22.20.

Mr. Rosario Marchese: Something new?

Interjection: Yes, that's the old package.

Mr. Rosario Marchese: I see.

I move that section 22.20 of the bill be amended by adding the following subsection:

"No lowering of Ontario standards

"(3) In carrying out subsection (1), the college shall not lower, or agree to the lowering of, any occupational standard that is appropriate to protect the public."

I should have withdrawn it. The government has already voted against this. I'll withdraw it because the government has no stomach for this.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Page 20 is a notice regarding section 22. Is this to vote against the section?

Mr. Rosario Marchese: Yes.

The Chair (Mr. Lorenzo Berardinetti): Then I'll put the question regarding section 22. Shall section 22 carry? All those in favour? Opposed? That carries.

Now, regarding section 23, there's a notice as well from the NDP.

Mr. Rosario Marchese: Yes. We'll just be voting against it.

The Chair (Mr. Lorenzo Berardinetti): Shall section 23 carry? All those in favour? Opposed? Carried. Now—

Mr. Rosario Marchese: Same thing.

The Chair (Mr. Lorenzo Berardinetti): Same thing with section 24? Shall section 24 carry? All those in favour? Opposed? That carries.

Section 25: On page 20 of our package is an NDP motion regarding clause 25(b).

Mr. Rosario Marchese: I move that clause 25(b) of the bill be struck out.

Clause (b) says, “governing the administrative penalties that may be ordered under this act and all matters necessary and incidental to the administration of a system of administrative penalties under this act, including,” and it lists the whole thing. I just thought I’d say, for the record, what I’m voting against.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Further discussion? None? All in favour of the motion? Opposed? That does not carry.

Shall section 25 carry? All those in favour? Opposed? That carries.

We’ll move on to section 26. On page 21 there’s a government motion, Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that clause 26(a) of the bill be struck out and the following substituted:

“(a) for the purpose of clause (b) of the definition of ‘authorizing certificate’ in subsection 2(1), prescribing one or more occupations and, for each occupation, prescribing one or more regulatory authorities that grant individuals a certificate, licence, registration, or other form of official recognition that attests to the individual being qualified to practise the occupation but does not authorize the practice of the occupation but does not authorize the practice of the occupation or the use of a title or designation relating to the occupation;”

The intent of this follows from the amendment proposed in motion 3 to change the language in subsection 2(1).

The Chair (Mr. Lorenzo Berardinetti): Further discussion? None? We’ll take a vote, then, on the motion. All those in favour of the motion? Opposed? That carries.

On page 22, we have an NDP motion.

Mr. Rosario Marchese: Withdrawn.

The Chair (Mr. Lorenzo Berardinetti): Withdrawn. Then I’ll put the question. Shall section 26, as amended, carry? All those in favour? Opposed? That carries.

Shall section 27 carry? All those in favour? Opposed? Carried.

We’ll move on to section 28. It’s a government motion; Mr. Flynn, on page 23 of our package.

Mr. Kevin Daniel Flynn: I move that clause 9(6)(b) of the Apprenticeship and Certification Act, 1998, as set out in subsection 28(1) of the bill, be struck out and the following substituted:

“(b) the other province or territory and the trade or occupation for which the document was issued in that province or territory are prescribed for the purpose of this clause.”

The Chair (Mr. Lorenzo Berardinetti): Any discussion on this?

Mr. Kevin Daniel Flynn: This extends the right to the voluntary trades under the Ontario-Quebec agreement. The amendment follows from an amendment that was proposed in motion 3 to change the language, as previously, in 2(1). It allows for the identification of an authorizing certificate that otherwise would not be captured under the definition previously proposed in 2(1)(a) for some trades that were grandfathered for labour mobility under the Ontario-Quebec construction agreement.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? I’ll put the motion to a vote. All those in favour of the motion? Opposed? That carries.

We’ll move on to page 24. This is also a government motion.

Mr. Kevin Daniel Flynn: I move that clause 19(2)(e.1) of the Apprenticeship and Certification Act, 1998, as set out in subsection 28(2) of the bill, be struck out and the following substituted:

“(e.1) for the purpose of clause 9(6)(b), prescribing one or more provinces or territories of Canada and, for each province or territory so prescribed, prescribing one or more trades or occupations that are practised in that province or territory;”

What this does is follow from the previous amendment that was proposed and carried in 21 to change the Apprenticeship and Certification Act. It gives the minister the appropriate regulation-making authority to give effect to that previous clause, and it really provides the authority for what we just passed a few minutes ago.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? I’ll put the motion to a vote. All those in favour of the motion? Opposed? That carries.

Before we vote on this, the next page has a notice. Mr. Marchese.

Mr. Rosario Marchese: I’ll just be voting against this section.

The Chair (Mr. Lorenzo Berardinetti): I’ll put the question. Shall section 28, as amended, carry? All those in favour? Opposed? That carries.

We’ll go to section 29.

Mr. Rosario Marchese: I’ll be voting against it.

The Chair (Mr. Lorenzo Berardinetti): I’ll put the question, then. Shall section 29 carry? All those in favour? Opposed? Carried.

Shall section 30 carry? All those in favour? Opposed? That carries.

Shall section 31 carry? All those in favour? Opposed? That carries.

Section 32: On page 25 of our package, there’s a government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that clause 22(d) of the Proceedings Against the Crown Act, as set out in section 32 of the bill, be struck out and the following substituted:

“(d) under a final order to pay made by a competent authority under a trade agreement that the crown has entered into with the government of another province or

territory of Canada, the government of Canada or any combination of those governments.”

1510

What this does is fulfill the obligations we have under the Ontario-Quebec trade agreement. It extends the payment authority, under the act we were talking about, Proceedings Against the Crown Act, to the amounts that the province has to pay under any trade agreement. That includes the AIT, the Ontario-Quebec trade agreement and any other future agreements that are entered into.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion on this? No? I'll put it to a vote. Shall the motion carry? All those in favour? Opposed? Carried.

Shall section 32, as amended, carry? All those in favour? Opposed? Carried.

We'll move on now to section 33, on page 26, and this is a PC motion. Mr. Bailey.

Mr. Robert Bailey: I move subsection 33(2) of the bill be struck out and the following substituted:

“(2) Subsection 43(1) of the act is amended by adding the following clauses:

“(l) prescribing a longer period in respect of a college for the purpose of section 22.23 of the code;

“(m) defining, for the purposes of sections 22.3 and 22.15 to 22.23 of the code, any word or expression that is used in those sections but not defined in this act;

“(n) exempting a college from the application of sections 22.15 to 22.23 of the code for a period of not more than two years, if the college and representatives of the parties to the Agreement on Internal Trade signed in 1994 by the governments of Canada, the provinces of Canada, the Northwest Territories and the Yukon Territory have agreed to attempt to arrive at common certification requirements for the health profession which the college regulates.”

The rationale behind this amendment is to meet the desires of the medical community and others who appeared before us. Medical regulators across Canada have agreed amongst themselves to implement a single national standard that would eliminate patient safety concerns arising from the possible lower registration standards in some provinces. It will take time for this group to make the necessary legislative and other changes across the country. The college is actively working and helping to lead this process at the national level through the Federation of Medical Regulatory Authorities of Canada.

This would be a transitional step to protect public safety. The vast majority of doctors, including all Canadian medical graduates and many international graduates, will have national mobility when Bill 175 goes into effect.

A small minority of doctors who have not completed their medical council exams or an approved residency program would be subject to assessment in Ontario.

Full national mobility for all doctors registered in any province within two years, when a national standard is adopted by all provincial regulators—this is a broadly

worded amendment. It could apply to any profession, trade or occupation that is working to national standards.

The Chair (Mr. Lorenzo Berardinetti): Mr. Marchese, do you want to comment?

Mr. Rosario Marchese: Yes, just a couple of things. I don't know where the government stands on this, so I'm not sure whether we're making a case for nothing. I'm not sure.

A few things: First of all, the college of doctors came and they talked about this. They said that they are on the verge of having an agreement. They want a two-year exemption because they believe that they can get together across Canada and establish some rules that they can all live with. We think it's good. I think it's a good thing. It's like the red seal program, where only British Columbia, for some reason, has opted out, and Quebec, to some extent, although we understand their standards are pretty good and strong. Only British Columbia has opted out of that. We think the doctors are on the verge of coming up with an agreement that is helpful to us all.

My motion is almost similar except we have, in my motion, in (n), at the end of “Yukon Territory,” “as amended from time to time,” because these things happen and bills do get amended from time to time. We thought that it was a little more accurate to do. In spite of that small amendment that I made, and in talking to the representative from the college, we still didn't get the language right, based on what they would have liked, to make it clear.

This has nothing to do with the legislative counsel at all. It has to do with the fact that we rushed incredibly through this. We went from a closure motion last Monday to a morning and afternoon of hearings on Thursday, and we had to submit amendments by Friday. It was just the most incredible thing I've ever seen. We have rarely done it except in the days of Mike Harris. So I know that Mike would have loved this government with respect to this particular bill.

We've had no possibility to correct anything. It is a cruel thing; I agree with you. I've never seen anything like it, where we have moved so quickly to get this bill out of the way. We had hearings on this the very same day that we had hearings on the harmonized tax. We're now going to have third reading debate. It's unbelievable. We're supposed to put the amendments in a very short period of time. We had no time to consult adequately with legislative counsel or adequately with the folks who came to present in committee. I wanted to say on the record it's the most shameful thing I've ever seen.

We did our best to try to reflect the concerns of the college. It wasn't 100%, but there you have it.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Flynn?

Mr. Kevin Daniel Flynn: We won't be supporting this amendment that is on the floor either, or the one that comes after, if it makes it to the floor.

We've established a process already that is in place for regulatory authorities if they want to make a request for an exemption. It reflects the criteria that is already

established within the AIT. What we'd be doing here is we would be setting up a duplicate process, and it seems to me that's not something we would want to do. We do have a process in place; it's a good process and it's worthy of support.

Mr. Rosario Marchese: On a recorded vote.

The Chair (Mr. Lorenzo Berardinetti): Further discussion?

Mr. Robert Bailey: This is something the medical community requested and I think it's a reasonable amendment, but we'll see.

The Chair (Mr. Lorenzo Berardinetti): Thank you. A recorded vote has been asked for.

Ayes

Bailey, Marchese.

Nays

Aggelonitis, Flynn, Lalonde, Levac.

The Chair (Mr. Lorenzo Berardinetti): That does not carry.

We'll go to page 27. This is an NDP motion. Mr. Marchese?

Mr. Rosario Marchese: Given that I already spoke to it and given that I said on the record that my motion is pretty well the same, with some minor addition, I'll just withdraw it rather than reading it out.

The Chair (Mr. Lorenzo Berardinetti): So that is withdrawn.

The next motion is on page 28. This is an NDP motion.

Mr. Rosario Marchese: I move that the definition of "Agreement on Internal Trade" in subsection 22.15(1) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 33(5) of the bill, be struck out.

The Chair (Mr. Lorenzo Berardinetti): Any discussion on that?

Mr. Rosario Marchese: No, it's self-explanatory, I thought.

The Chair (Hon. Rick Bartolucci): Thank you. Any further discussion? None? So we'll take a vote on it. All those in favour of the motion? Opposed? That does not carry.

We'll go to page 29.

Mr. Rosario Marchese: I move that clause (b) of the definition of "out-of-province certificate" in subsection 22.15(1) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 33(5) of the bill, be amended by striking out "that is a party to the Agreement on Internal Trade".

The Chair (Mr. Lorenzo Berardinetti): Any discussion?

Mr. Kevin Daniel Flynn: The same amendment is in my sequence.

The Chair (Mr. Lorenzo Berardinetti): Okay. I don't have this one in my package, but we'll get some

copies made. Why don't we recess for five minutes just to get copies of this made?

We're recessed for five minutes. We'll resume in five minutes.

The committee recessed from 1516 to 1525.

The Chair (Mr. Lorenzo Berardinetti): I call this meeting back to order. You should all have copies of page 29, a motion that has been moved by Mr. Marchese.

Mr. Rosario Marchese: Shall I read it again? I did read it.

I move that clause (b) of the definition of "out-of-province certificate" in subsection 22.15(1) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 33(5) of the bill, be amended by striking out "that is a party to the Agreement on Internal Trade."

We don't like the agreement.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? We'll just take a vote. All those in favour of the motion? Opposed? That does not carry.

Page 30 is in our package. This is also an NDP motion. Mr. Marchese.

1530

Mr. Rosario Marchese: I move that section 22.16 of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 33(5) of the bill, be struck out and the following substituted:

"Purpose

"22.16 The purpose of sections 22.15 to 22.23 is to eliminate or reduce measures established or implemented by the college that restrict or impair the ability of an individual to obtain a certificate of registration when the individual holds an equivalent out-of-province certificate."

I think it's obvious.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None. So we'll take a vote. All those in favour? Opposed? It does not carry.

Page 31: It's an NDP motion. Mr. Marchese.

Mr. Rosario Marchese: I move that section 22.17 of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 33(5) of the bill, be struck out.

The Chair (Mr. Lorenzo Berardinetti): Discussion? None. We'll take a vote. All those in favour? Opposed? It does not carry.

Page 32: Mr. Bailey.

Mr. Robert Bailey: I move that paragraph 2 of subsection 22.18(5) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 33(5) of the bill, be struck out and the following substituted:

"2. If the condition set out in paragraph 2 of subsection (6) is met,

"i. provide a certificate, letter or other evidence from the body or individual that granted the out-of-province certificate, confirming that it is in good standing, and

"ii. provide a certificate, letter or other evidence from any body or individual in any jurisdiction in which the applicant trained for or practised the profession, con-

firming that the applicant is or was in good standing in that jurisdiction.”

The rationale behind this amendment is to protect the public. The college needs to get a full picture about an applicant. This includes obtaining a certificate of good standing from the regulatory authority in any jurisdiction where the applicant has practised or trained. Limiting the college to one regulatory authority could result in missing something significant in the applicant’s history and possibly jeopardizing public safety. This would help understand a doctor’s performance prior to the current one they’re residing in.

The Chair (Mr. Lorenzo Berardinetti): Any discussion? Mr. Flynn.

Mr. Kevin Daniel Flynn: We believe that this is already addressed, or it’s addressed more directly by the government motion that relates to this subsection. That’s going to reflect Ontario’s obligations under the AIT. The information that would be captured under (2)(ii) can already be requested under the good-character provision in an existing provision, which is, for people’s information, subclause 22.18(5)(1)(v). We agree with the intent; we think it’s already covered off.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? So we’ll take a vote. All those in favour of the motion? Opposed? That does not carry.

We’ll go to page 33. It’s a government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: Here again, we’re in a similar circumstance where I believe Mr. Marchese has brought forward a motion that is, for all intents and purposes, from what I can see, the same motion. We’d be quite happy to move ours. We’d be quite happy to support Mr. Marchese’s. It’s entirely up to him.

Mr. Rosario Marchese: I’m getting tired. You go ahead.

Mr. Kevin Daniel Flynn: You’re tired? Give the throat a rest. I’ll do it, then.

I move that paragraph 2 of subsection 22.18(5) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 33(5) of the bill, be struck out and the following substituted:

“2. If the condition set out in paragraph 2 of subsection (6) is met, provide a certificate, letter or other evidence from every body or individual from whom the applicant currently holds an out-of-province certificate, confirming that the out-of-province certificate is in good standing.”

It’s a technical amendment, basically. It clarifies that the colleges are permitted to request evidence of good standing from any of the provinces and territories where an individual currently is certified within the country. It rectifies a drafting inconsistency between the language in this section and the relevant section of the bill.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? So we’ll take a vote. All those in favour of the motion? Opposed? That carries.

On page 34: Mr. Marchese.

Mr. Rosario Marchese: Withdraw.

The Chair (Mr. Lorenzo Berardinetti): Withdrawn? Okay, withdrawn.

We’ll go to page 35. It’s an NDP motion.

Mr. Rosario Marchese: I move that section 22.18 of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 33(5) of the bill, be struck out.

The Chair (Mr. Lorenzo Berardinetti): Any discussion? None? We’ll take a vote. All those in favour? Opposed? That does not carry.

We’ll go to page 36. This is a PC motion. Mr. Bailey.

Mr. Robert Bailey: I move that paragraph 1 of subsection 22.18(7) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 33(5) of the bill, be struck out and the following substituted:

“1. Refusing to issue a certificate of registration to the applicant on the basis of any registration requirement that is prescribed as a non-exemptible requirement under clause 95(1)(d).

“1.1 Imposing terms, conditions or limitations on the applicant’s certificate of registration if, in the opinion of the registration committee, such action is necessary to protect the public interest as a result of,

“i. complaints, or criminal, disciplinary or other proceedings, against the applicant in any jurisdiction whether in or outside Canada, relating to the applicant’s competency, conduct or character, or

“ii. any other information that comes to the attention of the registration committee relating to the applicant’s competency, conduct or character.”

The rationale behind this, Chair and committee, is giving them a reason to say no and to impose conditions on anyone that does qualify. This would clarify that the college would have the ability to continue and have discussions that, one, refuse registration where applicants do not meet the non-exemptible requirements of registration regulation. Example: to practise with decency, integrity and honesty or in accordance with the law. Two, it would also impose terms, conditions and limitations based on any information that comes to the registration committee’s attention, not just information regarding proceedings. Example: A quality assessment review is not a proceeding, but can provide relevant information about an applicant.

These are all indications from the doctors themselves, the medical community—concerns they had, things they’d like to see in this bill.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? Mr. Flynn.

Mr. Kevin Daniel Flynn: We won’t be supporting it from this side. We understand what’s being attempted here, but were it to pass, it runs contrary to the intent of the overall bill.

Interjection.

Mr. Kevin Daniel Flynn: It runs contrary to the overall intent of the bill.

Mr. Rosario Marchese: Contrary?

Mr. Kevin Daniel Flynn: As—

Mr. Rosario Marchese: As mine?

Mr. Kevin Daniel Flynn: As most of yours do, except for the good ones that we supported.

Mr. Rosario Marchese: I was just going to say that we support this amendment. Our amendment has an additional component, which was other regulatory processes that would involve other provinces. It's all connected to the quality assessment program that everybody is involved in. But clearly, the government is saying that both the Conservative motion and mine are contrary to the good principles of this bill, so they're going to oppose both of them.

Mr. Robert Bailey: Recorded vote.

Ayes

Bailey, Marchese.

Nays

Aggelonitis, Flynn, Lalonde, Levac, Zimmer.

The Chair (Mr. Lorenzo Berardinetti): That does not carry. We'll go to page 37. This is—

Mr. Rosario Marchese: It's my motion, right?

The Chair (Mr. Lorenzo Berardinetti): NDP motion.

Mr. Rosario Marchese: I will withdraw it because the government has already stated its intention to defeat it.

The Chair (Mr. Lorenzo Berardinetti): We'll move to page 38. This is also an NDP motion.

1540

Mr. Rosario Marchese: I move that section 22.19 of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 33(5) of the bill, be struck out.

The Chair (Mr. Lorenzo Berardinetti): Any discussion? None? We'll take a vote. All those in favour of the motion? Opposed? That does not carry.

We'll go to page 39. This is an NDP motion.

Mr. Rosario Marchese: I move that subsection 22.20(1) of the bill be amended by adding "and" at the end of clause (a) and by striking out clause (b).

That has to do with reconciling—that's not the one?

The Chair (Mr. Lorenzo Berardinetti): I think we're on page 39.

Mr. Rosario Marchese: I'm getting tired. You're wearing me out.

Mr. Kevin Daniel Flynn: I'm not sure which one we're on either.

The Chair (Mr. Lorenzo Berardinetti): Page 39 of our package. Do you have page 39?

Mr. Rosario Marchese: I move that subsection—

The Chair (Mr. Lorenzo Berardinetti): One moment; I want to make sure that everyone's got this one. In our package, page 39: It's an NDP motion and it's regarding subsection 33(5) of the bill. Do you not have that one there?

Mr. Rosario Marchese: The new package, page 39.

Mr. Jean-Marc Lalonde: We have page 39. The previous one you called, we didn't have.

Mr. Rosario Marchese: I read something different. *Interjections.*

The Chair (Mr. Lorenzo Berardinetti): Does everyone have it?

Mr. Kevin Daniel Flynn: Yes, I think so.

Mr. Rosario Marchese: You're voting against it anyway. All you have to do is just say, "I'm voting against."

Mr. Kevin Daniel Flynn: Hey, we might surprise you. What if we liked it and we missed it.

Mr. Rosario Marchese: You wouldn't have missed it.

I move that subsection 22.20(2) of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 33(5) of the bill, be amended by striking out "to establish such occupational standards" and substituting "to establish or maintain such occupational standards".

Slight difference.

The Chair (Mr. Lorenzo Berardinetti): Discussion? None? We'll take a vote. All those in favour? Opposed? It's not carried.

Mr. Rosario Marchese: See what I mean?

The Chair (Mr. Lorenzo Berardinetti): Page 40 of our package. This is an NDP motion: Mr. Marchese.

Mr. Rosario Marchese: I move that section 22.22 of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 33(5) of the bill, be struck out.

The Chair (Mr. Lorenzo Berardinetti): Discussion? None? We'll take a vote.

Mr. Rosario Marchese: This has to do with the reconciling differences—

The Chair (Mr. Lorenzo Berardinetti): Any other discussion?

Mr. Rosario Marchese: —which we oppose.

The Chair (Mr. Lorenzo Berardinetti): Okay. So we'll take a vote. All those in favour of the motion? Opposed? It does not carry.

Page 41, NDP motion: Mr. Marchese.

Mr. Rosario Marchese: I move that section 22.23 of schedule 2 to the Regulated Health Professions Act, 1991, as set out in subsection 33(5) of the bill, be struck out.

The Chair (Mr. Lorenzo Berardinetti): Any discussion? None? We'll take a vote. Shall the motion carry? All in favour? Opposed? That does not carry.

The next question is shall section 33, as amended, carry? All those in favour? Opposed? That carries.

Shall section 34 carry? All those in favour? Opposed? Carried.

We'll go to section 35, and on page 42 of our package there's a government motion: Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that clause 17(3)(b) of the Trades Qualification and Apprenticeship Act, as set out in subsection 35(1) of the bill, be struck out and the following substituted:

"(b) the other province or territory and the trade for which the document was issued in that province or territory are prescribed for the purpose of this clause."

This section allows for the identification of an authorizing certificate that otherwise would not be captured under the definition we had previously. These are the trades that were grandfathered for labour mobility under the Ontario-Quebec construction agreement. What this does now is it takes the Trades Qualification and Apprenticeship Act and the college of trades and includes both.

The Chair (Mr. Lorenzo Berardinetti): Any further discussion? None? So we'll take a vote. All those in favour of the motion? Opposed? That carries.

We'll go to page 43. This is also a government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that section 27 of the Trades Qualification and Apprenticeship Act, as set out in subsection 35(2) of the bill, be struck out and the following substituted:

"Regulations by minister

"27. The minister may make regulations for the purpose of clause 17(3)(b), prescribing one or more provinces or territories of Canada and, for each province or territory so prescribed, prescribing one or more trades that are practised in that province or territory."

This amendment follows from the proposed amendment in 35; that was motion 42. It gives the minister the appropriate regulation authority to give effect to that clause.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Further discussion? None? So we'll take a vote. All those in favour of the motion? Opposed? That carries.

Now, on the next page, there's a notice from the NDP. Mr. Marchese, did you want—

Mr. Rosario Marchese: I'll be voting against.

The Chair (Mr. Lorenzo Berardinetti): Okay, thank you. So then I'll put the question. Shall section 35, as

amended, carry? All those in favour? Opposed? That carries.

Section 36: There's a government motion on page 44.

Mr. Kevin Daniel Flynn: I move that section 36 of the bill be struck out and the following substituted:

"Commencement

"36. This act comes into force on the day it receives royal assent."

The amendment would change the commencement date, which was previously envisioned as August 1, 2009. The act would now come into force immediately upon the bill receiving royal assent.

Mr. Rosario Marchese: I'm against it.

The Chair (Mr. Lorenzo Berardinetti): All right. Any discussion? None? We'll take the vote. All those in favour of the motion? Opposed?

Mr. Rosario Marchese: The NDP opposes.

The Chair (Mr. Lorenzo Berardinetti): That carries.

Shall section 36, as amended, carry? All those in favour? Opposed? Carried.

Shall section 37 carry? All those in favour? Opposed? That carries.

Shall table 1 carry? All those in favour? Opposed? Carried.

Shall the title of the bill carry? All those in favour? Opposed? That carries.

Shall Bill 175, as amended, carry? All those in favour? Opposed? Carried.

Shall I report the bill, as amended, to the House? All those in favour? Opposed? That carries.

I think that we're finished. We are adjourned. Thank you.

The committee adjourned at 1544.

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